Calendar No. 492

98TH CONGRESS } SENATE { REPORT
1st Session } { No. 98-280

MARINE SANCTUARIES

OCTOBER 26 (legislative day, OCTOBER 24), 1983.—Ordered to be printed

---

Mr. PACKWOOD, from the Committee on Commerce, Science, and Transportation, submitted the following

REPORT

[To accompany S. 1102]

The Committee on Commerce, Science, and Transportation, to which was referred the bill (S. 1102) to provide authorization of appropriations for title III of the Marine Protection, Research, and Sanctuaries Act of 1972, having considered the same, reports favorably thereon with an amendment in the nature of a substitute and recommends that the bill do pass.

PURPOSE OF BILL

The primary objective of S. 1102, as reported, is to authorize appropriations for the National Marine Sanctuary program for fiscal years 1984, 1985, and 1986. The amendment to the act will also resolve the problems associated with implementing the program.

BACKGROUND AND NEED

Title III of the Marine Protection, Research and Sanctuaries Act of 1972 (16 U.S.C. 1431 et seq.) authorizes the Secretary of Commerce to designate areas as national marine sanctuaries for the purpose of "preserving or restoring. . . their conservation, recreational, ecological or esthetic values". The National Marine Sanctuary program is designed to recognize marine areas of national significance whose protection and beneficial use call for comprehensive planning and management. The National Oceanic and Atmospheric Administration (NOAA) administers the program through its Office of Ocean and Coastal Resource Management.

Six marine sanctuaries have been established to date:

1. The wreck of the Civil War ironclad U.S.S. *Monitor* off the coast of North Carolina;
2. A coral reef tract at Key Largo, Fla.;

S263-34

3. A marine mammal and seabird habitat in the Channel Islands off Southern California;

4. A breeding habitat for marine mammals and seabirds in the Point Reyes-Farallon Islands of Northern California;

5. A coral reef tract at Looe Key, Fla.; and

6. Gray's Reef, a rock reef area off the coast of Georgia.

Congressional concerns have been raised over the scope of the program, the size and number of marine sanctuaries, the activities to be regulated within the sanctuaries, and the goals and management of the program.

The principal controversy results from confusion surrounding the national marine sanctuary program's designation process. In particular, offshore oil and gas and commercial fishery interests have expressed concerns that sanctuary designations will restrict their activities. In 1982, the Western Oil and Gas Association (WOGA) filed suit in U.S. District Court challenging the legitimacy of the marine sanctuary designation in California's Channel Islands Sanctuary. In addition, fishing interests, especially in Maine and Alaska, have expressed fears that large areas might be singled out for sanctuary status where commercial fishing could be excluded.

In 1980, the act was amended to streamline the site designation process; improve consultation and coordination by various Federal, State and local entities; affirm the validity of permits, licenses and authorizations; outline enforcement activities; and allow Congress to disapprove sanctuary designations. Despite these amendments, concerns about the program implementation remained.

S. 1102 is expected to reduce the confusion surrounding this program by providing explicit guidance to the Administration as to Congress' intent regarding the National Marine Sanctuary program. The bill establishes standards and conditions for the Secretary of Commerce to apply when assessing marine areas for sanctuary designation, outlines the designation procedures for the Secretary to follow, and establishes opportunities for Congressional review.

S. 1102 is one of a series of bills which together provide a comprehensive authorization for NOAA under the Department of Commerce.

LEGISLATIVE HISTORY

Testimony on the National Marine Sanctuary program was presented as part of the NOAA ocean and coastal programs hearing on February 28, 1983, before the Committee on Commerce, Science, and Transportation. Representatives from industry, academia and government addressed the achievements and problems of the National Marine Sanctuary program. S. 1102 was introduced by the Committee Chairman, Senator Bob Packwood, on April 19, 1983, to provide authorization of appropriations for the program.

A number of interests expressed a desire for amendments to the act that would clarify the National Marine Sanctuary designation process. The amendments proposed would require consultation with the Congress, State, and Federal agencies, and the Regional Fishery Management Councils affected by the designation; call for the consideration of the effect of sanctuary designation and regulation on the oil and gas and commercial fishing activities in the designated area; and allow Congressional review of the site designation.

Discussions resulted in an amendment in the nature of a substitute to S. 1102 which is expected to remove the uncertainty accompanying the National Marine Sanctuary program. On September 20, 1983, the Committee by unanimous consent ordered reported S. 1102.

SUMMARY OF THE BILL

Title III of the Marine Protection, Research, and Sanctuaries Act of 1972 (16 U.S. 1431 et seq.) is amended through this legislation, cited as the "Marine Sanctuaries Amendments of 1983". The amendments address:

1. The sanctuary designation standards;
2. The procedures for sanctuary designation and implementation;
3. The international application of sanctuary regulations and negotiations;
4. The research and interpretation programs of sanctuaries; and
5. The enforcement authorities and responsibilities of sanctuaries.

The bill contains a 3-year authorization for the National Marine Sanctuaries program.

ESTIMATED COSTS

In accordance with paragraph 11(a) of rule XXVI of the Standing Rules of the Senate and section 403 of the Congressional Budget Act of 1974, the Committee provides the following cost estimate, prepared by the Congressional Budget Office:

U.S. CONGRESS,
CONGRESSIONAL BUDGET OFFICE,
Washington, D.C., September 23, 1983.

Hon. BOB PACKWOOD,
Chairman, Committee on Commerce, Science, and Transportation, U.S. Senate, Dirksen Senate Office Building, Washington, D.C.

DEAR MR. CHAIRMAN: Pursuant to Section 403 of the Congressional Budget Act of 1974, the Congressional Budget Office has prepared the attached cost estimate for S. 1102, the Marine Sanctuaries Amendments of 1983.

Should the Committee so desire, we would be pleased to provide further details on this estimate.

Sincerely,

RUDOLPH G. PENNER, *Director.*

CONGRESSIONAL BUDGET OFFICE—COST ESTIMATE

SEPTEMBER 23, 1983.

1. Bill number: S. 1102.
2. Bill title: Marine Sanctuaries Amendments of 1983.
3. Bill status: As ordered reported by the Senate Committee on Commerce, Science, and Transportation, September 20, 1983.

4. Bill purpose: The bill amends Title III of the Marine Protection, Research, and Sanctuaries Act of 1972, and authorizes appropriations for fiscal year 1984, 1985, and 1986 to administer the provisions of that title.

Under Title III, the Secretary of Commerce is authorized to designate portions of the marine environment as national marine sanctuaries.

5. Estimated cost to the Federal Government:

	Millions
Authorization level:	
Fiscal year:	
1984	$2.3
1985	2.5
1986	2.8
1987	-----
1988	-----
Estimated outlays:	
Fiscal year:	
1984	2.0
1985	2.4
1986	2.8
1987	.4
1988	-----

The costs of this bill fall within budget function 300.

Basis of estimate.—The authorization levels are those stated in the bill, and are assumed to be appropriate in full prior to the beginning of each fiscal year. Outlays are estimated based on historical spending patterns for this program.

6. Estimated cost to State and local governments: None.

7. Estimate comparison: None.

8. Previous CBO estimate: On April 29, 1983, CBO prepared a cost estimate for H.R. 2062, the House companion version of this bill. The amounts authorized for appropriation by H.R. 2062 were identical to the authorizations in S. 1102.

9. Estimate prepared by: Anne E. Hoffman.

10. Estimate approved by:

JAMES L. BLUM,
Assistant Director for Budget Analysis.

REGULATORY IMPACT STATEMENT

In accordance with paragraph 11(b) of rule XXVI of the Standing Rules of the Senate, the Committee provides the following evaluation of the regulatory impact of the legislation, as reported.

The bill, as reported, amends and authorizes title III of the Marine Protection, Research, and Sanctuaries Act of 1972.

The bill is not expected to result in additional regulatory burdens on either businesses or individuals. While a specific requirement would be made for a management plan, regulations, and environmental impact statement for each sanctuary proposal, this is simply a statutory expression of NOAA's current interpretation of its legal obligations. Likewise, the economic impact will be negligible and paperwork is not likely to increase over the present level. There will be no impact on personal privacy.

SECTION-BY-SECTION ANALYSIS

This bill contains two sections: The first section, which names the bill as the "Marine Sanctuaries Amendments of 1983"; and section 2, which amends title III of the Marine Protection, Research, and Sanctuaries Act of 1972. The revised sections of title III are described below.

SECTION 301.—FINDINGS, PURPOSES, AND POLICIES

Section 301 finds that certain areas of the marine environment should be designated as marine sanctuaries because they possess conservation, recreational, ecological, historical, research, educational, or esthetic qualities of national significance. The purposes and policies of the act are to identify, conserve, and manage marine sanctuaries; to support and coordinate scientific research on the resources of such sanctuaries; and to enhance public awareness and use of the sanctuaries and their resources.

SECTION 302.—DEFINITIONS

Section 302 defines the terms "draft management plan", "Magnuson Act", "marine environment", "Secretary", and "State".

SECTION 303.—SANCTUARY DESIGNATION STANDARDS

Section 303(a) grants authority to the Secretary of Commerce to designate discrete areas of the marine environment as national marine sanctuaries and sets forth the standards to be considered in making such a designation. Before designating, the Secretary must consider the significance, present and potential uses, conservation and management needs, and the size of the proposed area. It is the Committee's intent that the quality of the available Federal and State management capability should be carefully considered by the Secretary in deciding the size of a sanctuary.

Prior to the 1980 Marine Sanctuary amendments, designation of several extremely large areas were suggested to the Secretary. One such area suggested was the Bering Straits of Alaska, which encompasses 107,000 square miles. This is viewed as an unrealistic size for effective conservation and management.

Section 303(b) requires the Secretary to consider specific factors affecting an area's designation; consult with the appropriate Congressional committees, State, local and Federal entities, and Regional Fishery Management Councils affected by the proposal designation; and draft a resource assessment report that documents the present and potential uses of the area. Among the considerations the Secretary is to take into account in a santuary designation are:

1. The area's natural resources, historical, cultural, and ecological qualities;
2. Present and potential uses of the area;
3. Manageability in terms of size, accessibility, and suitability for monitoring and enforcement activities;
4. Potential public benefits of sanctuary status; and
5. Probable socioeconomic effects of the designation.

The resource assessment report is required to be included in the draft environmental impact statement described under section 304(a) for the proposed sanctuary. When a particular resource use is within the primary jurisdiction of the Department of the Interior, the Secretary is required to prepare that portion of the report in consultation with the Secretary of the Interior.

The Committee can offer no absolute standards to be applied when an area is under consideration. While the factors indicating sanctuary status will vary from site to site, the combination of attributes should indicate an area of national significance. In addition, the Secretary should also consider the potential for conflict among users of a marine area, with the intent of promulgating regulations that encourage harmonious multiple-use, to the extent that such use is consistent with the purposes for which the sanctuary was designated.

SECTION 304.—PROCEDURES FOR DESIGNATION AND IMPLEMENTATION

Section 304(a) defines the procedures that the Secretary must follow in proposing a national marine sanctuary. The Secretary is required to publish in the Federal Register a notice of the proposal, the proposed regulations and a summary of the draft management plan.

The Secretary must prepare a draft environmental impact statement (as provided by the National Environmental Policy Act of 1969) on the proposed designation, the draft management plan and regulations.

The draft environmental impact statement will include the resource assessment report described under section 303(b), and maps depicting the boundaries of the area. These maps should be of such a scale to indicate accurately the boundaries of the proposed sanctuary with respect to those present and potential activities affected by sanctuary designation.

Copies of the draft environmental impact statement will be available to the public and the Secretary must hold at least one hearing in the coastal area or areas most affected by the designation.

The Secretary is required to transmit to the Committee on Merchant Marine and Fisheries of the House of Representatives and the Committee on Commerce, Science, and Transportation of the Senate a prospectus on the sanctuary proposal. The prospectus will include the basis of the findings and the terms of the designation, an assessment of the Secretary's considerations in compliance with section 303, the mechanisms of coordinating regulatory and management authorities, the draft management plan, an estimate of the costs of maintaining the sanctuary, the draft environmental impact statement, and proposed regulations.

The Secretary must provide the appropriate Regional Fishery Management Council with the opportunity to draft regulations on fishing activities within the sanctuary. It is the Committee's intent that the Regional Fishery Management Council be given the opportunity to draft the fishing regulations because of their familiarity with the resource base and the fishing activities within the proposed area. The Secretary may reject or modify these regulations if the Secretary determines that they are inconsistent with the goals and objectives of the proposed sanctuary.

A 45-day period of review of the sanctuary proposal begins on the date of submission of the prospectus to the House Committee on Merchant Marine and Fisheries and the Senate Committee on Commerce, Science, and Transportation. During this period, the Committees may hold hearings and issue a report on the proposed sanctuary. If either Committee issues a report, the Secretary must consider the report before designating the sanctuary.

Section 304(b) states that, to designate a national marine sanctuary, the Secretary must publish in the Federal Register a notice of the designation and final regulations, but they do not become effective before the close of a 45-day period for Congressional review. The period of Congressional review begins on the date of publication of the Federal Register notice designating a national marine sanctuary.

The designation will take effect after the expiration of the 45-day period for congressional action unless the Congress disapproves the designation by adopting a joint resolution of disapproval, or in the case of a sanctuary located within the jurisdiction of a State, the Governor finds such designation unacceptable. Only those portions of the designation not disapproved shall take effect.

If the Committee reports a joint resolution of disapproval, a motion to proceed to consideration of the joint resolution on the floor of the House and Senate will be privileged and not debatable.

The Secretary cannot terminate any valid lease, permit, license, right of subsistence use, or right of access if any lease, permit, license or right was in existence on the date of enactment of this act with respect to any sanctuary designated before that enactment, or if any lease, permit, license or right is in existence on the date of designation after enactment of this act. But the Secretary can regulate the same, consistent with the purposes for which the sanctuary is designated.

The Committee intends that the Secretary respect such leases, permits, licenses, right of subsistence use, or right of access, in recognition of the variety of uses within marine areas. The Secretary should use regulatory approaches that accommodate these uses, consistent with the purposes for which the sanctuary is designated.

SECTION 305.—INTERNATIONAL APPLICATION OF REGULATIONS AND NEGOTIATIONS

Section 305 requires that the regulations issued under the authority of section 304 be in accord with international law.

SECTION 306—RESEARCH AND INTERPRETATION

Section 306 authorizes research and interpretation programs in marine sanctuaries.

SECTION 307—ENFORCEMENT

Section 307 sets forth the enforcement authority and responsibilities of the Secretary and specifies civil penalties for violations of marine sanctuary regulations. Jurisdiction is given to the U.S. district courts.

SECTION 308.—AUTHORIZATION OF APPROPRIATIONS

Section 308 authorizes appropriations for fiscal years 1984, 1985, and 1986 at sums not to exceed $2,264,000; $2,500,000; and $2,750,000, respectively.

CHANGES IN EXISTING LAW

In compliance with paragraph 12 of rule XXVI of the Standing Rules of the Senate, changes in existing law made by the bill, as reported, are shown as follows (existing law proposed to be omitted is enclosed in black brackets, new material is printed in italic, existing law in which no change is proposed is shown in roman):

THE MARINE PROTECTION, RESEARCH, AND SANCTUARIES ACT OF 1972

Title III of that Act

[TITLE III—MARINE SANCTUARIES

[SEC. 301. Notwithstanding the provisions of subsection (h) of section 3 of this Act, the term "Secretary", when used in this title, means Secretary of Commerce. The term "State", when used in this title, means any of the several States or any territory or possession of the United States which has a popularly elected Governor.

[SEC. 302. (a) Secretary, after consultation with the Secretaries of State, Defense, the Interior, and Transportation, the Administrator, and the heads of other interested Federal agencies, and with the approval of the President, may designate as marine sanctuaries those areas of the ocean waters, as far seaward as the outer edge of the Continental Shelf, as defined in the Convention of the Continental Shelf (15 U.S.T. 74; TIAS 5578), of other coastal waters where the tide ebbs and flows, or of the Great Lakes and their connecting waters, which he determines necessary for the purpose of preserving or restoring such areas for their conservation, recreational, ecological, or esthetic values. The consultation shall include an opportunity to review and comment on a specific proposed designation.

[(b) Prior to designating a marine sanctuary which includes waters lying within the territorial limits of any State on superjacent to the subsoil and seabed within the seaward boundary of a coastal State, as that boundary is defined in section 2 of title I of the Act of May 22, 1953 (67 Stat. 29), the Secretary shall consult with, and give the consideration to the views of, the responsible officials of the State involved.

[(2) A designation under this section shall become effective unless—

[(A) the Governor of any State described in paragraph (1) certifies to the Secretary, before the end of the sixty-day period beginning on the date of the publication of the designation, that the designation or any of its terms described in subsection (f)(1), are unacceptable to his State, in which case those terms certified as unacceptable will not be effective in the waters described in paragraph (1) in such State until the Governor withdraws his certification of unacceptability; or

[(B) both Houses of Congress adopt a concurrent resolution in acordance with subsection (h) which disapproves the designation or any of its terms described in subsection (f)(1).

The Secretary may withdraw the designation after any such certification or resolution of disapproval. If the Secretary does not withdraw the designation, only those portions of the designation not certified as unacceptable under subparagraph (A) or not disapproved under subparagraph (B) shall take effect.

[(c) When a marine sanctuary is designated, pursuant to this section, which includes an area of ocean waters outside the territorial jurisdiction of the United States, the Secretary of State shall take such actions as may be appropriate to enter into negotiations with other Governments for the purpose of arriving at necessary agreements with those Governments, in order to protect such sanctuary and to promote the purposes for which it was established.

[(d) The Secretary shall submit a biennial report to the Congress, on or before March 1 of every other year beginning in 1984, setting forth a comprehensive review of his actions during the previous two fiscal years undertaken pursuant to the authority of this section, together with appropriate recommendation for legislation considered necessary for the designation and protection of marine sanctuaries.

[(e) Before a marine sanctuary is designated under this section, the Secretary shall hold public hearings in the coastal areas which would be most directly affected by such designation, for the purpose of receiving and giving proper consideration to the views of any interested party. Such hearings shall be held no earlier than thirty days after the publication of a public notice thereof.

[(f) (1) The terms of the designation shall include the geographic area included within the sanctuary; the characteristics of the area that give it conservation, recreational, ecological or esthetic value; and the types of activities that will be subject to regulation by the Secretary in order to protect those characteristics. The terms of the designation may be modified only by the same procedures through which an original designation is made.

[(2) The Secretary, after consultation with other interested Federal and State agencies, shall issue necessary and reasonable regulations to implement the terms of the designation and control the activities described in it, except that all permits, licenses, and other authorizations issued pursuant to any other authority shall be valid unless such regulations otherwise provide.

[(3) The Secretary shall conduct such research as is necessary and reasonable to carry out the purposes of this title.

[(4) The Secretary and the Secretary of the department in which the Coast Guard is operating shall conduct such enforcement activities as are necessary and reasonable to carry out the purposes of this title. The Secretary shall, whenever appropriate and in consultation with the Secretary of the department in which the Coast Guard is operating, utilize by agreement the personnel, services, and facilities of other Federal departments, agencies, and instrumentalities, or State agencies or instrumentalities, whether on a reimbursable or a nonreimbursable basis in carrying out his responsibilities under this title.

[(g) The regulations issued pursuant to subsection (f) shall be applied in accordance with recognized principles of international law, including treaties, conventions, and other agreements to which the United States is signatory. Unless the application of the regulations is in accordance with such principles or is otherwise authorized by an agreement between the United States and the foreign State of which the affected person is a citizen or, in the case of the crew of a foreign vessel, between the United States and flag State of the vessel, no regulation applicable to ocean waters outside the territorial jurisdiction of the United States shall be applied to a person not a citizen of the United States.

[(h) For purposes of subsection (b)(2)(B), the Secretary shall transmit to the Congress a designation of a marine sanctuary at the time of its publication. The concurrent resolution described in subsection (b)(2)(B) is a concurrent resolution which is adopted by both Houses of Congress before the end of the first period of sixty calendar days of continuous session of Congress after the date on which the designation is transmitted, the matter after the resolving clause of which is as follows: "That the Congress does not favor the taking of effect of the following terms of the marine sanctuary designation numbered ———— transmitted to Congress by the Secretary of Commerce on ————: ————", the blank space being filled with the number of the designation, the second blank space being filled with the date of the transmittal, and the third blank space being filled with the terms of the designation which are disapproved (or the phrase "the entire designation" if the entire designation is disapproved).

[(2) For the purpose of paragraph (1) of this subsection—

[(A) continuity of session is broken only by an adjournment of Congress sine die; and

[(B) the days on which either House is not in session because of an adjournment of more than three days to a day certain are excluded in the computation of the sixty-day period.

[(3) A designation which becomes effective, or that portion of a designation which takes effect under subsection (b), shall be printed in the Federal Register.

[SEC. 303. (a) Any person subject to the jurisdiction of the United States who violates any regulation issued pursuant to this title shall be liable to a civil penalty of not more than $50,000 for each such violation, to be assessed by the Secretary. Each day of a continuing violation shall constitute a separate violation.

[(b) No penalty shall be assessed under this section until the person charged has been given notice and an opportunity to be heard. Upon failure of the offending party to pay an assessed penalty, the Attorney General, at the request of the Secretary, shall commence action in the appropriate district court of the United States to collect the penalty and to seek such other relief as may be appropriate.

[(c) A vessel in the violation of a regulation issued pursuant to this title shall be liable in rem for any civil penalty assessed for such violation and may be proceeded against in any district court of the United States having jurisdiction thereof.

[(d) The district courts of the United States shall have jurisdiction to restrain a violation of the regulations issued pursuant to this title, and to grant such other relief as may be appropriate. Actions shall be brought by the Attorney General in the name of the United States, either on his own initiative or at the request of the Secretary.

[SEC. 304. There are authorized to be appropriated not to exceed $10,000,000 for each of the fiscal years 1973, 1974, and 1975, not to exceed $6,200,000 for fiscal year 1976, not to exceed $1,550,000 for the transition period (July 1 through September 30, 1976), not to exceed $500,000 for fiscal year 1977, not to exceed $500,000 for fiscal year 1978, not to exceed $2.250,000 for fiscal year 1981, not to exceed $2,235.000 for fiscal year 1982, and not to exceed $2,235,000 for fiscal year 1983, to carry out the provisions of this title, including the acquisition, development, and operation of marine sanctuaries designated under this title.]

TITLE III—NATIONAL MARINE SANCTUARIES

SEC. 301. FINDINGS, PURPOSES, AND POLICIES.—

(a) FINDINGS.—The Congress finds that—

(1) this Nation historically has recognized the importance of protecting special areas of its public domain, but such efforts have been directed almost exclusively to land areas above the high water mark;

(2) certain areas of the marine environment possess conservation, recreational, ecological, historical, research, educational, or esthetic qualities which give them special national significance;

(3) while the need to control the effects of particular activities has led to enactment of resource-specific legislation, these laws cannot in all cases provide a coordinated and comprehensive approach to the conservation and management of special areas of the marine environment;

(4) a Federal program which identifies special areas of the marine environment will contribute positively to marine resource conservation and management; and

(5) such a Federal program will also serve to enhance public awareness, understanding, appreciation, and wise use of the marine environment.

(b) PURPOSES AND POLICIES.—The purposes and policies of this title are—

(1) to identify areas of the marine environment of special national significance due to their resource or human-use values;

(2) to provide authority for comprehensive and coordinated conservation and management of these marine areas which will complement existing regulatory authorities;

(3) to support, promote, and coordinate scientific research on, and monitoring of, the resources of these marine areas;

(4) to enhance public awareness, understanding, appreciation and wise use of the marine environment; and

(5) to facilitate, to the extent compatible with the primary objective of resource protection, all public and private uses of the resources of these marine areas not prohibited pursuant to other authorities.

SEC. 302. DEFINITIONS.—As used in this title, the term—

(1) "draft management plan" means the plan described in section 304(a)(1)(E);

(2) "Magnuson Act" means the Magnuson Fishery Conservation and Management Act (16 U.S.C. 1801 et seq.);

(3) "marine environment" means those areas of coastal and ocean waters, the Great Lakes and their connecting waters, and submerged lands over which the U.S. exercises jurisdiction, consistent with international law;

(4) "Secretary" means the Secretary of Commerce; and

(5) "State" means each of the several States, the District of Columbia, the Commonwealth of Puerto Rico, the Common-

wealth of the Northern Mariana Islands, American Samoa, the Virgin Islands, Guam, and any other commonwealth, territory or possession of the United States.

SEC. 303. SANCTUARY DESIGNATION STANDARDS.—

(a) STANDARDS.—The Secretary may designate any discrete area of the marine environment as a national marine sanctuary and promulgate regulations implementing the designation if the Secretary determines that such designation will fulfill the purposes and policies of this title, and if the Secretary finds that—

(1) the area is of special national significance due to its resources or human-use values;

(2) existing State and Federal authorities are inadequate to ensure coordinated and comprehensive conservation and management of the area, including resource protection, scientific research and public education, and that designation of such area as a national marine sanctuary will facilitate these objectives; and

(3) the area is of a size and nature which will permit comprehensive and coordinated conservation and management.

(b) FACTORS AND CONSULTATIONS REQUIRED IN MAKING FINDINGS.—

(1) FACTORS.—For purposes of determining if an area of the marine environment meets the standards set forth in subsection (a), the Secretary shall consider—

(A) the area's natural resource and ecological qualities, including its contribution to biological productivity, maintenance of ecosystem structure, maintenance of ecologically or commercialy important or threatened species or species assemblages, and the biogeographic representation of the site;

(B) the area's historical, cultural, archaeological, or paleontological significance;

(C) the present and potential uses of the area that depend on maintenance of the area's resources, including commercial and recreational fishing, subsistence uses, other commercial and recreational activities, and recreational activities, and research and education;

(D) present and potential activities that may adversely affect the factors identified in subparagraphs (A), (B), and (C);

(E) existing State and Federal regulatory and management authorities applicable to the area and the adequacy of those authorities to fulfill the purposes and policies of this title;

(F) the manageability of the area, including such factors as its size, its ability to be identified as a discrete ecological unit with definable boundaries, its accessibility, and its suitability for monitoring and enforcement activities;

(G) the public benefits to be derived from sanctuary status, with emphasis on the benefits of long-term protection of nationally significant resources, vital habitats, and resources which generate tourism;

(H) the negative impacts produced by management restrictions on income-generating activities such as living and nonliving resource development, including minerals and energy development; and

(I) the socioeconomic effects of sanctuary designation.

(2) CONSULTATIONS.—In making such determination, the Secretary shall consult with—

(A) the Committee on Merchant Marine and Fisheries of the House of Representatives and the Committee on Commerce, Science, and Transportation of the Senate;

(B) the Secretaries of State, Defense, Transportation, the Secretary of the department in which the Coast Guard is operating, the Secretary of the Interior, the Administrator of the Environmental Protection Agency, and the heads of other interested Federal agencies;

(C) the responsible officials or relevant agency heads of the appropriate State and local government entities, including coastal zone management agencies, that will or are likely to be affected by the establishment of the area as a national marine sanctuary;

(D) the appropriate officials of any Regional Fishery Management Council established by section 302 of the Magnuson Act (16 U.S.C. 1852) that may be affected by the proposed designation; and

(E) other interested persons.

(3) RESOURCE ASSESSMENT REPORT.—In making such determination, the Secretary also shall draft, as part of the environmental impact statement required under section 304(a)(1), a resource assessment report documenting present and potential uses of the area, including commercial and recreational fishing, research and education, minerals and energy development, subsistence uses, and other commercial recreational uses. The Secretary, in consultation with the Secretary of the Interior, shall be responsible for drafting a resource assessment section for the report regarding any commercial or recreational resource uses in the area under consideration which are subject to the primary jurisdiction of the Department of the Interior.

SEC. 304. PROCEDURES FOR DESIGNATION AND IMPLEMENTATION.—

(a) SANCTUARY PROPOSAL.—

(1) NOTICES.—In proposing to designate a national marine sanctuary, the Secretary shall issue in the Federal Register a notice of the proposal, together with proposed regulations that may be necessary and reasonable to implement such proposal and a summary of the draft management plan. The Secretary shall provide notice of the proposal in newspapers of general circulation or electronic media in the communities that may be affected by the proposal. After issuing a notice the Secretary shall conduct at least one public hearing in the area affected by the proposed designation. The Secretary shall also prepare a draft environmental impact statement, as provided by the National Environmental Policy Act of

1969 (42 U.S.C. 4321 et seq.), on the area proposed for designation and on the draft management plan and regulations. Such draft statement shall include the resource assessment report required under section 303(b)(3), and maps depicting the boundaries of the proposed designated area and the existing and potential uses and resources of the area. Copies of the draft environmental impact statement shall be available to the public. No sooner than 30 days after issuing a notice under this subsection, the Secretary shall hold at least one public hearing in the coastal area or areas that will be most affected by the proposed designation of the area as a national marine sanctuary for the purpose of receiving the views of interested parties. On the same day as such notice is issued, the Secretary shall also submit to the Committee on Merchant Marine and Fisheries of the House of Representatives and the Committee on Commerce, Science, and Transportation of the Senate a prospectus on the proposal which shall contain—

(A) the terms of the proposed designation;

(B) the basis of the findings made under section 303(a) with respect to the area;

(C) an assessment of the considerations under section 303(b)(1);

(D) proposed mechanisms to coordinate existing regulatory and management authorities within the area;

(E) the draft management plan detailing the proposed goals and objectives, management responsibilities, resource studies, interpretive and educational programs, and enforcement and surveillance activities for the area;

(F) an estimate of the annual cost of the proposed designation, including costs of personnel, equipment and facilities, enforcement, research, and public education;

(G) the draft environmental impact statement prepared under this subsection;

(H) an evaluation of the advantages of cooperative State and Federal management where proposed marine sanctuaries lie within the territorial limits of any State or are superjacent to the subsoil and seabed within the seaward boundary of a State, as the term "boundary" is used in the Submerged Lands Act (43 U.S.C. 1301 et seq.); and

(I) proposed regulations to implement the terms of designation and the measures referred to in subparagraphs (A), (D) and (E) and paragraph (3).

(2) TERMS OF DESIGNATION.—The terms of designation of a sanctuary shall include the geographic area proposed to be included within the sanctuary, the characteristics of the area that give it conservation, recreational, ecological, historical research, educational, or esthetic value, and the types of activities that will be subject to regulation by the Secretary in order to protect those characteristics. The terms of a designation may be modified only by the same procedures by which the original designation was made.

(3) FISHING REGULATIONS.—The Secretary shall provide the appropriate Regional Fishery Management Council with the opportunity to prepare such draft regulations for fishing within the United States Fishery Conservation Zone as the Council may deem necessary to implement the proposed designation. Draft regulations prepared by the Council or a Council determination that regulations are not necessary pursuant to this paragraph shall be accepted and promulgated by the Secretary unless the Secretary finds that the Council's action fails to fulfill the purposes and policies of this title and the goals and objectives of the proposed designaton. In preparing the draft regulations, a Regional Fishery Management Council shall also use as guidance the national standards of section 301(a) of the Magnuson Act (16 U.S.C. 1851) to the extent that the standards are consistent and compatible with the goals and objectives of the proposed designation. The Seretary shall prepare such regulations, if the Council declines to make a determination with respect to the need for regulations, makes a determination which is rejected by the Secretary, or fails to prepare the draft regulations in a timely manner. Any amendments to fishing regulations shall be drafted, approved and promulgated in the same manner as the original regulations.

(4) COMMITTEE ACTION.—After receiving the prospectus under subsection (a)(1), the Committee on Merchant Marine and Fisheries of the House of Representatives and the Committee on Commerce, Science, and Transportation of the Senate may each hold hearings on the proposed designation and on the matters set forth in the prospectus. If within the 45-day period of continuous session of Congress beginning on the date of submission of the prospectus, either Committee issues a report concerning matters addressed in the prospectus, the Secretary shall consider such report before designating the national marine sanctuary.

(b) TAKING EFFECT OF DESIGNATIONS.—

(1) NOTICE.—In designating a national marine sanctuary, the Secretary shall publish in the Federal Register notice of the designation together with final regulations to implement the designation and any other matters required by law, and submit such notice to the Congress. The Secretary shall also advise the public of the availability of the draft management plan and the environmental impact statement with respect to such sanctuary. No notice of designation may occur until the expiration of the period for Committee action under subsection (a)(4). The designation (and any of its terms not disapproved under this subsection) and regulations shall take effect and become final after the close of a review period of 45 days of continuous session of Congress beginning on the day on which such notice is issued unless—

(A) the Congress disapproves the designation or any of its terms, by adopting a joint resolution of disapproval described in paragraph (3); or

(B) in the case of a national marine sanctuary that is located partially or entirely within the jurisdiction of any State, the Governor affected certifies to the Secretary that the designation or any of its terms is unacceptable, in which case the designation or the unacceptable term shall not take effect in the area of the sanctuary lying within the jurisdiction of the State.

(2) Withdrawal of designation.—If the Secretary considers that actions taken under paragraph (1) (A) or (B) will affect the designation in such a manner that the goals and objectives of the sanctuary cannot be fulfilled, the Secretary may withdraw the designation. If the Secretary does not withdraw the designation, only those portions of the designation not certified as unacceptable under paragraph (1) (A) or not disapproved under paragraph (1)(B) shall take effect.

(3) Resolution of disapproval.—For the purposes of this subsection, the term "resolution of disapproval" means a joint resolution which states after the resolving clause the following: "That the Congress disapproves the national marine sanctuary designation entitled ———— that was submitted to Congress by the Secretary of Commerce ————.", the first blank space being filled with the title of the designation and the second blank space being filled with the date on which the notice was submitted to Congress. In the event that the disapproval is addressed to one or more terms of the designation, the joint resolution shall state after the resolving clause the following: "That the Congress approves the national marine sanctuary designation entitled that was submitted to Congress by the Secretary of Commerce on but disapproves the following terms of such designation:.", the first blank space being filled with the title of the designation, the second blank space being filled with the date on which the notice was submitted to Congress, and the third blank space referencing each term of the designation which is disapproved.

(4) Procedures.—

(A) In computing the 45-day periods of continuous session of Congress pursuant to subsection (a)(4) and paragraph (1) of this subsection—

(i) continuity of session is broken only by an adjournment of Congress sine die; and

(ii) the days on which either House of Congress is not in session because of an adjournment of more than 3 days to a day certain are excluded.

(B) When the committee to which a joint resolution has been referred has reported such a resolution, it shall at any time thereafter be in order to move to proceed to the consideration of the resolution. The motion shall be privileged and shall not be debatable. An amendment to the motion shall not be in order, and it shall not be in

order to move to reconsider the vote by which the motion was agreed to or disagreed to.

(C) This subsection is enacted by Congress as an exercise of the rulemaking power of each House of Congress, respectively, and as such is deemed a part of the rules of each House, respectively, but applicable only with respect to the procedure to be followed in the case of resolutions described in this subsection. This subsection supersedes other rules only to the extent that they are inconsistent therewith, and is enacted with full recognition of the constitutional right of either House to change the rules (so far as those relate to the procedure of that House) at any time, in the same manner, and to the same extent as in the case of any other rule of such House.

(5) ACCESS AND VALID RIGHTS.—Nothing in this title shall be construed as terminating, or granting to the Secretary the right to terminate, any valid lease, permit, license, right of subsistence use, or right of access: Provided, That such lease, permit, license or right was in existence on the date of enactment of the Marine Sanctuaries Amendments of 1983, with respect to any national marine sanctuary designated before such date: Provided further, That such lease, permit, license or right is in existence on the date of designation of any national marine sanctuary, with respect to any national marine sanctuary designated after the date of enactment of the Marine Sanctuaries Amendments of 1983: And provided further, That the exercise of such lease, permit, license or right shall be subject to regulation by the Secretary consistent with the purposes for which the sanctuary is designated.

SEC. 305. INTERNATIONAL APPLICATION OF REGULATIONS AND NEGOTIATIONS.—

(a) REGULATIONS.—The regulations issued under section 304 shall be applied in accordance with recognized principles of international law, including treaties, conventions, and other agreements to which the United States is signatory. Unless the application of the regulations is in accordance with such principles or is otherwise authorized by an agreement between the United States and the foreign state of which the affected person is a citizen or, in the case of the crew of a foreign vessel, between the United States and flag state of the vessel, no regulation applicable to area or activities outside the jurisdiction of the United States shall be applied to a person not a citizen, national, or resident alien of the United States.

(b) NEGOTIATIONS.—After the taking effect under section 304 of a national marine sanctuary that applies to an area or activity beyond the jurisdiction of the United States, the Secretary of State shall take such action as may be appropriate to enter into negotiations with other governments in order to make necessary arrangements for the protection of the sanctuary and to promote the purposes for which it is established.

SEC. 306. RESEARCH AND INTERPRETATION.—The Secretary shall conduct such research and interpretation programs as are necessary and reasonable to carry out the purposes and policies of this title.

Sec. 307. Enforcement.—

(a) In general.—The Secretary shall conduct such enforcement activities as are necessary and reasonable to carry out this title. The Secretary shall, whenever appropriate, utilize by agreement the personnel, services, and facilities of other Federal departments, agencies, and instrumentalities, or of State departments, agencies and instrumentalities on a reimbursable basis in carrying out the Secretary's responsibilities under this title.

(b) Civil penalties.—

(1) Civil penalty.—Any person subject to the jurisdiction of the United States who violates any regulation issued under this title shall be liable to a civil penalty of not more than $50,000 for each such violation, to be assessed by the Secretary. Each day of a continuing violation shall constitute a separate violation.

(2) Notice.—No penalty shall be assessed under this subsection until the person charged has been given notice and an opportunity to be heard. Upon failure of the offending party to pay an assessed penalty, the Attorney General, at the request of the Secretary, shall commence action in the appropriate district court of the United States to collect the penalty and to seek such other relief as may be appropriate.

(3) In rem jurisdiction.—A vessel used in the violation of a regulation issued under this title shall be liable in rem for any civil penalty assessed for such violation and may be proceeded against in any district court of the United States having jurisdiction thereof.

(c) Jurisdiction.—The district courts of the United States shall have jurisdiction to restrain a violation of the regulations issued under this title, and to grant such other relief as may be appropriate. Actions shall be brought by the Attorney General in the name of the United States. The Attorney General may bring suit either on his own initiative or the request of the Secretary.

Sec. 308. Authorization of Appropriations.—For purposes of carrying out this title, there are authorized to be appropriated not to ex-$2,264,000 for fiscal year 1984, $2,500,000 for fiscal year 1985, and $2,750,000 for fiscal year 1986.

○

Calendar No. 496

98th Congress
1st Session

SENATE

Report
No. 98-283

HIGHWAY SAFETY ACT OF 1983

October 27 (legislative day October 24), 1983.—Ordered to be printed

Mr. Packwood, from the Committee of Commerce, Science, and Transportation, submitted the following

REPORT

together with

ADDITIONAL VIEWS

[To accompany S. 1108]

The Committee on Commerce, Science, and Transportation, to which was referred the bill (S. 1108) to amend various provisions of law to provide for more effective highway and motor vehicle safety regulations and enforcement, and for other purposes, having considered the same, reports favorably thereon with an amendment in the nature of a substitute and recommends that the bill do pass.

Purpose of the Bill

BACKGROUND AND NEED

Each year, highway accidents claim the lives of more than 45,000 Americans and hundreds of thousands more are injured. According to government estimates, motor vehicle accidents cost society $57,200 million in 1980 in terms of property damage, lost productivity, medical costs, emergency services, and other costs.

The National Highway Traffic Safety Administration (NHTSA) of the Department of Transportation (DOT) is responsible for establishing safety standards for motor vehicles and motor vehicle equipment and for undertaking and supporting safety research and development.

The Bureau of Motor Carrier Safety (BMCS) at DOT is responsible for regulating the safety of trucks and buses operating in inter-

S263-35

state commerce, including those transporting hazardous materials. Enforcement of the Federal motor carrier safety regulations, however, is constrained due to the small number of inspection personnel and the limited sanctions available for prosecution of safety violations. In 1982, there were 31,759 truck accidents, resulting in nearly 2,500 fatalities, nearly 26,000 injuries, and causing $321 million in property damage. Bus accidents are far less numerous, with 832 accidents in 1981, but bus safety remains an issue of concern in this industry.

This legislation amends the National Traffic and Motor Vehicle Safety Act of 1966 and the Motor Vehicle Information and Cost Savings Act to require NHTSA to undertake specific actions in order to incorporate the most up-to-date technological advances in automobiles and trucks to save lives and reduce injuries and property damage.

This legislation also amends current motor carrier safety statutes administered by BMCS to provide for a comprehensive motor carrier safety program.

NHTSA ACTIVITIES

NHTSA is responsible for administering three statutes: the National Traffic and Motor Vehicle Safety Act of 1966; the Highway Safety Act of 1966; and the Motor Vehicle Information and Cost Savings Act. Under these acts, NHTSA is required to establish safety standards, mandate compliance, undertake safety research, order recalls, and provide consumers with information.

Testimony received by the Subcommittee on Surface Transportation at a series of hearings on motor vehicle safety issues held throughout 1983 called NHTSA's commitment to safety in question. Under the current administration, NHTSA over the past 2½ years has been the target of increasing criticism; while the agency has taken some positive steps to promote highway safety, it has also rescinded or weakened motor vehicle safety standards, terminated rulemakings, and delayed taking action on rulemakings.

Automobile bumpers

In April 1971, NHTSA promulgated the part 215 bumper safety standard, pursuant to the National Traffic and Motor Vehicle Safety Act of 1966. This standard, which went into effect in September 1972, required that bumpers be able to withstand collisions at up to 5 mph in the front and 2.5 mph in the rear, without permitting damage to safety-related equipment (that is, headlamps and taillights; door, trunk and hood latches; and the cooling and fuel exhaust systems). The standard was upgraded a year later; in September 1973, it included 5 mph impact speeds for both front and rear bumpers and 3 mph at the corners. It also included impact with a pendulum-type device in addition to the barrier impact already required, thus making the test more stringent.

In October 1972, Congress enacted the Motor Vehicle Information and Cost Savings Act, with the stated purpose of reducing the economic losses caused by traffic accidents. NHTSA was directed to promulgate bumper standards that would increase damage protection levels over those existing at the time the Act was passed. To accomplish this, NHTSA promulgated the part 581 standard in 1976. This standard incorporated the part 215 safety standard and, starting with 1979 model cars, required bumpers to be capable of withstanding 5 mph collisions without damage to any exterior part of the automobile; in 1980 model year cars, this was expanded to include the bumper itself.

In May 1982, NHTSA reduced the standard from 5 mph to 2.5 mph for both front and rear bumpers and eliminated entirely the requirement that the bumper itself be capable of withstanding damage at a specified speed. NHTSA said that the 5 mph bumper did not have any safety benefits and asserted that the 2.5 mph bumpers would cost and weigh less than the 5 mph bumpers, leading to lower sticker prices and improved fuel economy.

NHTSA's decision to roll back the bumper standard is now being challenged in the courts by State Farm Mutual and Allstate Insurance Companies. A brief was filed by the petitioners in the U.S. Court of Appeals for the D.C. Circuit on February 14, 1983. Oral argument is scheduled for later this year.

Side impact protection

Federal Motor Vehicle Safety Standard 214, governing side impact protection, became effective on January 1, 1973. (A number of domestic vehicles complied with the standard earlier.) By the mid-1970's, however, researchers realized that the standard was not adequate for small car protection and that new safety measures should be implemented as more small cars came on the road in the future.

The current side impact protection standard requires that a subcompact car weighing 1,750 pounds must be able to resist a force of 3,500 pounds in side crushes of 18 inches performed under static test conditions. A 2,500 pound compact car must be able to resist a force of 5,000 pounds, while any car over 3,500 pounds must resist a 7,000 pound force. Thus, as cars get lighter and more in need of side impact protection, the protection becomes poorer.

Based on the need for improved side impact protection and the demonstrated technology to accomplish such an improvement, the Center for Auto Safety petitioned NHTSA to upgrade standard 214 in October 1977. In September 1979, NHTSA issued a comprehensive evaluation of standard 214 and in December of that year, issued an Advance Notice of Proposed Rulemaking to upgrade the standard. The new standard would have required a 30 mph dynamic side crash with instrumented dummies meeting specified injury criteria, thus making the test more closely resemble real-world crashes. The new standard would also have been extended to apply to light trucks, vans, and multipurpose passenger vehicles.

On July 12, 1982, NHTSA terminated this rulemaking, noting that many complex issues had arisen which would require considerable time to resolve. NHTSA said the rulemaking would be reopened "after research and analysis has progressed to the point that appropriate test methods and performance parameters can be developed." This process was expected to take 1 year.

In March 1982, NHTSA embarked on a "coordinated automotive research" effort. This program was oriented toward the establishment of test procedures which could be used to assess side impact crash safety; the program was subsequently expanded to include other research projects. The propriety of this type of cooperative effort was challenged in court by the consumer group Public Citizen; in July 1983, a settlement agreement was signed and NHTSA discontinued its cooperative research program on side impact protection.

Airbags and passive seat belts

The DOT in 1967 issued the original occupant crash protection standard (standard 208), which required seat belts in all cars. By July 1969, DOT had concluded that the level of seat belt use was too low to reduce traffic deaths and injuries to what was considered to be an "acceptable" level. (At its lowest point, seat belt usage was 10 percent; for persons involved in crashes, the use rate was 8 percent.) Therefore, this standard was revised to include passive protection requirements; DOT's final 1972 amendment to standard 208 called for "complete passive protection" on vehicles manufactured after August 15, 1975. In the interim, vehicles built between August 1973 and August 1975 were to carry either passive restraints or lap and shoulder belts coupled with an "ignition interlock" that would prevent starting the vehicle if the belts were not connected. Most manufacturers chose the second option.

By late 1974, the public's irritation at being unable to start a car without fastening seat belts led Congress to reject the entire standard. The Motor Vehicle and Schoolbus Safety Amendments of 1974 (P.L. 93-492) effected two main changes:

1. Congress banned any Federal motor vehicles safety standard requiring ignition interlocks or continuous buzzers to warn that seat belts were not in use.
2. Congress reduced DOT's discretion to modify standard 208 in the future. Any modified standard that could be satisfied by any system other than seat belts only would have to be submitted to Congress where it might be vetoed by concurrent resolution of both Houses.

In 1977, DOT issued a new mandatory passive restraint regulation, with an implementation schedule based on vehicle size. In deference to auto manufacturers' submissions to DOT, the modified standard required installation of airbags or passive seat belts in large cars by September 1, 1981; in mid-size cars by September 1, 1982; and in small cars by September 1, 1983.

The modified standard was taken to court; by Pacific Legal Foundation and others; the U.S. Court of Appeals for the D.C. Circuit, rejecting petitoners' arguements, found the standard a rational, nonarbitrary regulation consistent with the agency's mandate under the Safety Act. In addition, Congress did not exercise its authority under the legislative veto provision of the 1974 amendments. This Committee considered a resolution of disapproval, which was reported to the floor with a recommenation that it *not* pass. This resolution of disapproval was tabled in the Senate by a vote of 65-31.

In October 1981, NHTSA rescinded modified standard 208; this action was premised almost entirely on the fact that most manufacturers had indicated that they would meet the standard by using a "detachable" automatic belt, which NHTSA conceded would not increase belt usage significantly. NHTSA also expressed uncertainty about public acceptability and use of automatic safety belts and noted the "relatively substantial cost" of automatic restraints.

This rescission was challenged in court by State Farm Mutual and others, and in June 1982, the U.S. Court of Appeals for the D.C. Circuit reversed NHTSA's rescission of the standard. In August 1982, the court reinstated the passive restraint standard, effective September 1, 1983. NHTSA appealed the court of appeals decision to the Supreme Court which, on June 24, 1983, held in a unanimous opinion that NHTSA's rescission of the passive restraint standard had been "arbitrary and capricious." The court also held by a majority vote that NHTSA was too quick to dismiss the safety benefits of automatic seat belts, and failed adequately to consider an airbag-only option for the standard. The Court vacated the judgment of the court of appeals, and remanded the case to that court with directions to remand the matter to NHTSA for further consideration consistent with the Court's opinion. In August 1983, NHTSA suspended the automatic restraint requirements from September 1, 1983 to September 1, 1984. In September 1983 testimony before the subcommittee on surface transportation, NHTSA testified that it would issue a Notice of Proposed Rulemaking on October 15, 1983 and expects its reconsideration of standard 208 to be completed before the end of the 1-year suspension.

Antilacerative windshields

Since the 1968 model year, all vehicles sold in the United States have contained High Penetration Resistant windshields which prevent an occupant's head from penetrating the windshield during a collision. Nevertheless, the inner and outer windshield glass does shatter, resulting in more than 300,000 laceration injuries to passenger car occupants each year.

Antilacerative windshields mold a thin layer of a special plastic on the interior surface of the windshield to act as a shield between occupants and shattered glass. This type of windshield meets all U.S. safety standards except for interior surface scratch resistance.

Since May 1979, Saint-Gobain Vitrage, a European manufacturer of antilacerative windshields, has sought formal U.S. approval of its windshield to permit its use in this country. In April 1981, the Insurance Institute for Highway Safety formally petitioned NHTSA to amend the existing windshield regulation (standard 205) to remove requirements for abrasion resistance on the occupant side of the windshield. Such an amendment would enable manufacturers to install antilacerative windshields in the United States. NHTSA issued an Advance Notice of Proposed Rulemaking on this matter in January 1981. In late 1982, however, NHTSA officials expressed some concern that abrasion occurring on the inside of the windshield could conceivably pose a hazard by deteriorating the windshield and reducing visibility.

Early in 1983, NHTSA permitted General Motors to equip 2,500 automobiles with antiacreative windshields in order to test their durability in use. In March 1983, NHTSA issued a Notice of Proposed Rulemaking to amend standard 205 to permit the use of antilacerative windshields in the United States.

DRUNK AND DRUGGED DRIVING

Congress took steps last year to address the national tragedy resulting from drunk driving with enactment in October 1982 of legislation to encourage States to take more effective action against drunk drivers. This act, Public Law 97-364, provides for a two-tiered incentive grant program. States become eligible for a basic grant if they meet 4 criteria: (1) prompt license suspension for drunk drivers; (2) mandatory imprisonment or community service for repeat offenders; (3) a 0.10 percent blood alcohol content (BAC) as per se evidence of intoxication; and (4) increased enforcement and public information efforts. States can qualify for additional funding under a supplemental grant program if they meet additional criteria specified by *NHTSA,* along with the 4 basic grant criteria. NHTSA issued its final rule implementing this incentive grant program on January 31, 1983. A total appropriation of $125 million over fiscal years 1983-85 was authorized to carry out these incentive grant programs.

This incentive grant program represents an important first step. Nevertheless, the Committee believes more must be done to combat drunk driving, as well as the emerging problem of drugged driving.

While significant actions have been taken in recent years at the Federal and State levels to combat drunk driving, 55 percent of U.S. traffic deaths occur in drunk driving accidents. These accidents claim the lives of 25,000 Americans each year, cause 750,000 crippling and other serious injuries, and result in estimated economic costs of $20 billion per year. Of the Americans killed in drunk driving accidents each year, 10,000 are under the age of 21.

Testimony was presented to the Committee in May 1983 on the issue of drunk and drugged driving. Virtually all of the witnesses stressed the need to raise the minimum legal drinking age to 21 for consumption of all types of alcoholic beverages. Governor John Volpe, Chairman of the Presidential Commission on Drunk Driving, summarized the problem as follows:

> The Surgeon General has reported that life expectancy has increased over the past 75 years for every age group except one—those between 15 and 24. Their death rate is higher today than it was 20 years ago and the leading single cause of death for this age is drunk driving * * * 29 percent of those between 16 and 19 involved in a fatal accident are at or above the 0.10 percent BAC level; on weekends that figure rises dramatically to 56 percent.

Research has shown that increasing the drinking age results in a decrease in alcohol-related crashes among young people. For example, the Insurance Institute for Highway Safety found that any State that increases the drinking age to 21 can expect nighttime fatal crashes among the 18-20 year-olds to drop by about 28 percent. Even more substantial gains would be made if the minimum drinking age throughout the United States were 21.

As of August 1983, however, 31 States and the District of Columbia did not have 21 as the minimum legal drinking age.

Congress addressed this issue in section 209 of the Surface Transportation Assistance Act of 1982 (P.L. 97-424), strongly encouraging

States to prohibit the sale of alcoholic beverages to persons who are under 21 years of age.

The Presidential Commission on Drunk Driving has recommended that States immediately adopt 21 years as the minimum legal age for consumption of all types of alcoholic beverages. In addition, in testimony before the Subcommittee on Surface Transportation in March 1983, the National Transportation Safety Board (NTSB) stated that raising the drinking age to 21 is one measure that has been proven to be effective in reducing teenage drunk driving deaths.

Another emerging problem is that of drugged driving. While more is known about the drunk driving problem, it is also clear that persons driving while under the influence of drugs other than alcohol constitute a serious safety threat.

A January 1982 NHTSA-sponsored study of 497 injured drivers in Rochester, N.Y. found a 25 percent incidence of alcohol in the drivers, a 10 percent incidence of THC (a marijuana agent), and an 8 percent incidence of tranquilizers. Thirty-eight percent of the drivers had alcohol or some other drug tested for in their systems. For drivers found responsible for these accidents, 74 percent were intoxicated, 53 percent were THC-only drivers, 34 percent were drug-free, and 22 percent were tranquilizer-only drivers. Further, a 1981 University of Michigan Highway Safety Research Institute study conservatively estimated that 4 percent of all crashes are possibly caused by impairment due to drugs other than alcohol. This translates into an annual total of 2,000 fatalities, 80,000 serious injuries, and nearly 750,000 traffic crashes.

CHILD PASSENGER SAFETY

According to the NTSB automobile accidents are the number one killer and crippler of young children in the United States. More than 650 children under age 5 are killed in auto crashes each year, while more than 50,000 are injured. The insurance industry believes that car crashes kill 10 times as many children as all the diseases combined against which they are immunized. The NTSB also testified in March 1983 before the Subcommittee on Surface Transportation that it believes that proper use of safety seats could prevent 90 percent of child fatalities and a vast majority of serious injuries to children.

While occupant restraints for adults are governed by Federal regulations, rules regarding child restraints have been largely left to the States. The Federal standard for child seats, standard 213, specifies operating requirements for child safety seats. The standard does not, however, direct that these safety seats by installed.

As of July 1983, 40 States, plus the District of Columbia, have passed child restraint laws. The evidence shows that these laws save lives and reduce injures. For example, in Tennessee, which adopted the first safety seat law in 1978, child fatalities have been reduced from roughly 25 per year before the law to 6 in 1982. In Michigan, there were about 1,300 child deaths and injuries before the child safety seat law was enacted in April 1982; the figure has now dropped to about 900. Further, Rhode Island officials credit their safety seat law with a 25 percent cut in automobile injuries to children.

Impressive gains have been made at the State level in enacting child safety seat laws. Given the high number of States with these laws, the focus at the Federal level now appears to be shifting toward implementation of comprehensive programs to support the laws and enforcement of the laws. Further, as States have limited funds available for a variety of different highway safety programs, funding is needed for loaner programs, hospital and community-based training programs in correct usage of child restraints, and public information and education.

Public information efforts are vitally important to encourage use of child safety seats. It is critical that the notion that a child is safest in a parent's arms be dispelled. Children are not shielded from harm in automobile accidents when held in a parent's arms. Even in collision at speeds as low as 15 mph, it is physically impossible for a parent to hold a child. Further, in a 30 mph crash, a mother weighing 100 pounds who is holding her child will slam against that child with the force of 3,000 pounds. The child often will serve as a cushion, protecting the mother from bodily harm, while the mother crushes the child between herself and the dashboard.

The usage rate of child safety seats must also be increased to afford maximum protection. Among infants under the age of 1, only 32 percent are properly placed into child safety seats, while only 16 percent of toddlers between 1 and 4 years are protected by use of these seats.

MOTOR CARRIER SAFETY

Motor carrier safety has been an issue of considerable concern to the Commerce Committee for several years. The Committee has conducted extensive hearings and reported legislation on this issue in the 95th through the 98th Congresses.

Major steps were taken in 1982 to improve motor carrier safety with enactment of the Surface Transportation Assistance Act of 1982 (P.L. 97-424). This act authorized a total of $150 million over fiscal years 1984 through 1988 to enable DOT to provide grants to States for enforcement of Federal and compatible State motor carrier safety regulations. This grant program is crucial to the enforcement of motor carrier safety regulations; States will be able to supplement the current Federal safety enforcement efforts.

The 1982 act also provided protection to trucking company employees who report safety violations. Section 405 of the act protects trucking company employees from discharge, discipline, or discrimination "because such employee (or any person acting pursuant to a request of the employee) has filed any complaint or instituted or caused to be instituted any proceeding relating to a violation with a commercial motor vehicle safety rule, regulation, standard or order, or has testified or is about to testify in such proceeding".

Trucking company employees are also protected from discharge, discipline, or discrimination if an employee refuses to operate a vehicle due to the employee's reasonable apprehension of serious injury to himself or to the public due to the unsafe condition of such equipment. The department of Labor is to investigate employees complaints when such discriminatory activity is alleged. If a violation is discovered, the Secretary of Labor is directed to order affirmative action to abate the violation, including such rememdies as reinstatement and specified compensation and damges.

Nevertheless, the Committee believes that more must be done to enhance motor carrier safety. The following tables demonstrate the magnitude of the motor carrier safety problem:

TABLE 1.—MOTOR CARRIERS OF PROPERTY

	1978	1979	1980	1981	1982
Accidents	33,998	35,541	31,389	32,306	31,759
Fatalities	2,998	3,072	2,528	2,810	2,479
Injuries	32,757	32,126	27,149	28,533	25,779
Property damages	$200,153,506	$304,410,228	$355,106,000	$300,964,705	$231,305,836
Accident rate per million vehicle miles [1]	1.246	1.072	(2)	1.085	0.966
Fatality rate per 100 million vehicle miles [1]	9.342	8.903	(2)	9.129	7.245

[1] Figures for roughly 80 percent of trucks reporting to BMCS.
[2] Not available.

TABLE 2.—MOTOR CARRIERS OF PASSENGERS

	1977	1978	1979	1980	1981
Accidents	830	728	719	748	832
Fatalities	87	68	60	74	95
Injuries	1,929	1,917	1,977	1,711	2,041
Property damage	$3,576,000	$4,023,000	$4,485,000	$4,659,000	$5,291,000
Accident rate per million vehicle miles [1]	0.630	0.690	0.580	0.600	0.610
Fatality rate per 100 million vehicle miles [1]	5.730	5.320	4.330	4.920	8.770

[1] Figures for Class I bus companies only.

Source: U.S. Department of Transportation, Bureau of Motor Carrier Safety.

The Committee believes the regulations governing commercial motor vehicle safety must be comprehensively restructured to provide DOT broader enforcement authority, greater uniformity in motor carrier safety regulation, an improved system of penalties for violations of safety regulations, and a meaningful system for determining the safety fitness of motor carriers operating in interstate commerce.

LEGISLATIVE HISTORY

On February 17, March 10, and March 11, 1983, the Subcommittee on Surface Transportation conducted three hearings on various aspects of motor vehicle safety and the marketplace; the issues addressed at this series of hearings were incorporated into title I—Automotive Safety Improvements—of S. 1108. Testimony was presented by automobile and vehicle component manufacturers, NHTSA officials, insurance industry representatives, consumer organizations, and labor representatives.

On May 26, 1983, the Commerce Committee conducted a hearing on title II of S. 1108—Drunk and Drugged Driving. The full Committee conducted a hearing on title III—Motor Vehicle Safety—on June 14, 1983, and on title IV—Hazardous Materials Transportation—on July 13, 1983. Testimony was presented by DOT officials, consumer groups, insurance industry representatives, motor carriers and carrier associations, and labor spokespersons.

On September 13, 1983, the Subcommittee on Surface Transportation conducted a hearing on oversight of NHTSA. Testimony was presented by current and former NHTSA officials, the Office of Management and Budget, insurance industry representatives, consumer groups, independent researchers, and automobile accident victims.

On September 20, the Committee ordered reported S. 1108 as amended, by a voice vote; that is, with amended titles I, II, and III.

ESTIMATED COSTS

In accordance with paragraph 11(a) of rule XXVI of the Standing Rules of the Senate and section 403 of the Congressional Budget Act of 1974, the Committee provides the following cost estimate, prepared by the Congressional Budget Office:

U.S. CONGRESS,
CONGRESSIONAL BUDGET OFFICE,
Washington, D.C., September 30, 1983.

Hon. BOB PACKWOOD,
Chairman, Committee on Commerce, Science and Transportation, U.S. Senate, Dirksen Senate Office Building, Washington, D.C.

DEAR MR. CHAIRMAN: Pursuant to Section 403 of the Congressional Budget Act of 1974, the Congressional Budget Office has prepared the attached cost estimate for S. 1108, the Highway Safety Act of 1983.

Should the Committee so desire, we would be pleased to provide further details on this estimate.

Sincerely,

RUDOLPH G. PENNER, *Director.*

CONGRESSIONAL BUDGET OFFICE COST ESTIMATE, SEPTEMBER 30, 1983

1. Bill number: S. 1108
2. Bill title: Highway Safety Act of 1983.
3. Bill status: As ordered reported by the Senate Committee on Commerce, Science and Transportation, September 20, 1983.
4. Bill purpose: Title I of the bill, the "Automotive Safety Improvement Act of 1983", requires a variety of improved safety technologies to be installed in automobiles. This title also addresses rules and regulations to be enforced by the Secretary of Transportation regarding bumper standards, side impact protection, antilacerative windshields, and stoplamps. In addition, starting with model years after September 1, 1985, the bill requires major automobile manufacturers to offer automatic safety airbags on at least one automobile line.

Title II of the bill, the "Motor Vehicle Passenger Protection Act of 1983", provides an incentive grant program to assist states in improving their response to drunk or drugged drivers, to encourage states to promote child pasenger safety seats, and to assist states in modernizing their traffic record systems. To promote these programs, the bill authorizes appropriations out of the Highway Trust Fund of $44.5 million for fiscal year 1984, $48.5 million for fiscal year 1985, and $30 million for fiscal year 1986. In addition, this title establishes in each state a fund to compensate uninsured victims of persons driving under the influence of alcohol, and reserves 15 percent of the funds apportioned to a state for federal-aid highway programs until it is certified that the state has statutes or programs consistent with drunk driving standards promulgated by this title.

Title III, the "Motor Carrier Safety Act of 1983", strengthens existing regulations on commercial truck and bus operation, requires the Secretary of Transportation, in consultation with the Director of the National Institute for Occupational Safety and Health and the Secretary of Labor, to study the health hazards affecting opertors of commercial motor vehicles, and specifies penalties for violations of this title. In addition, ther is authorized to be appropriated $1.2 million for fiscal year 1984 and $1.4 million for fiscal year 1985 for a heavy truck study.

5. Estimated cost to the Federal Government:

[By fiscal years, in millions of dollars]

	1984	1985	1986	1987	1988
Estimated authorization level	46	50	30		
Estimated outlays	10	23	29	29	22

The costs of this bill fall within budget function 400.

Basis of Estimates. All funds specifically authorized are assumed to be appropriated. Outlays were estimated using historical disbursement rates for similar programs administered by the National Highway Traffic Safety Administration. It is estimated that the truck occupant study and safety related devices study required by the bill would cost less than $1 million in fiscal year 1984.

6. Estimated cost to State and local governments. Of the outlays shown in the above table, most are for the grants to States for the enforcement of alcohol traffic safety programs, the maintenance of computerized safety recordkeeping systems, and the implementation of laws requiring proper use of child safety seats. There is no specific state matching requirement to receive these grants once other requirements are met. Therefore, there are no direct costs for State and local governments due to enactment of this legislation. The extent to which states augment the funds provided by these grants or take other steps toward these safety goals would be entirely voluntary.

Estimate comparison: None.

8. Previous CBO estimate: None.

9. Estimate prepared by: Patrick J. McCann.

10. Estimate approved by James L. Blum, Assistant Director for Budget Analysis.

Regulatory Impact Statement

In accordance with paragraph 11(b) of rule XXVI of the Standing Rules of the Senate, the Committee provides the following evaluation of the regulatory impact of the legislation:

NUMBER OF PERSONS COVERED

Title I of S. 1108, as reported, modifies and upgrades existing Federal Motor Vehicle Safety Standards applicable to all vehicles sold in the United States. Thus, the number of persons covered should be consistent with current levels.

Title II of S. 1108 establishes an incentive grant program to encourage States to enact laws setting the minimum legal drinking age at 21 and requiring use of child passenger safety seats, and to establish computerized traffic recordkeeping systems. States meeting the specified criteria for the grants would be covered by this legislation. Title II also requires the establishment of a nationwide blood alcohol content standard and provides that 15 percent of a State's highway funds will be withheld if the State does not meet the requirements of section 206. All States would be covered by this requirement.

Title II confers additional regulatory authority on DOT to improve the existing safety regulation of commercial motor vehicles and clarifies DOT's regulatory role over the health of commercial motor vehicle operators. The commercial motor vehicle operations affected, excepted those operations affecting interstate commerce, are covered by existing law and regulations.

ECONOMIC IMPACT

Section 108 of S. 1108 authorizes appropriation of such sums as are necessary for fiscal years 1984 and 1985 to study truck occupant protection. Section 111 authorizes appropriation of such sums as are necessary for fiscal 1984 to study safety-related devices.

Section 205 authorizes appropriation of $44,500,000 for fiscal 1984, $48,500,000 for fiscal 1985; and $30 million for fiscal 1986 for incentive grants to States with specified safety programs.

Section 206 establishes a fund in each State to compensate uninsured victims of drunk drivers. The fund shall be comprised of: (1) the proceeds from the sale of motor vehicles of second offender drunk drivers, as specified in section 206; (2) monies authorized by Congress or DOT; and (3) State tax revenues on the sale of publicly-served alcoholic beverages.

Section 314 authorizes appropriation of $1,200,000 for fiscal 1984 and $1,400,000 for fiscal 1985 for the conduct of heavy truck research.

The above funding levels are modest and are not expected to have an inflationary impact on the Nation's economy.

Title I requires auto manufacturers to install or offer for sale various automobile safety features. Costs incurred by manufacturers in producing these items are expected to be passed onto consumers, as is the case with other vehicle components. The Committee also expects, however, these items to be offered by manufacturers at reasonable, volume production prices, thus resulting in a minimal increase in the purchase price of a car. Any such price increases are expected to be offset by consumer savings for such items as repairs, insurance, and health care costs. The Government will also receive a net savings from safer automobiles.

Section 309 sets forth civil and criminal penalties for violations of Federal commercial motor vehicle safety regulations. These fines are intended to increase compliance with these regulations, but the Secretary in determining the level of the fine must consider a violator's ability to pay and the effect of the fine on a person's ability to continue to do business.

PRIVACY

S. 1108 will not have any adverse impact on the personal privacy of the individuals affected.

PAPERWORK

Sections 104, 105, 106, 107, 108, 110, 204, 205, 206, 311, 312, and 313 require the DOT to initiate, reinstate, re-open, or complete rulemaking activities regarding various safety issues.

Section 306 requires the Secretary to coordinate the safety and health activities of Federal agencies and to attempt to minimize paperwork burdens. This should lessen paperwork requirements on persons subject to the Federal commercial motor vehicle safety regulations and on Federal agencies.

S. 1108 also requires studies: (1) section 108 of S. 1108 requires the Secretary of Transportation to study crash protection for truck occupants; (2) section 111 requires the Secretary to study the effectiveness of existing regulations regarding emergency warning devices for motor vehicles; (3) section 306 requires the Secretary of Transportation, in consultation with the Director of the National Institute for Occupational Safety and Health and the Secretary of Labor, to conduct a study of health hazards related to commercial motor vehicle operations; and (4) section 314 requires the Secretary to study the safety characteristics of heavy trucks.

Section 110 requires the Secretary to prepare a booklet for purposes of disseminating comparative information regarding the crashworthiness of passenger cars. The Secretary is required to make copies of this booklet available to automobile manufacturers for distribution to automobile dealers. The Motor Vehicle Information and Cost Savings Act requires NHTSA to disseminate information to the public regarding vehicle safety. This provision of S. 1108 should not result in a significant paperwork increase to automobile manufacturers or the agency.

SECTION-BY-SECTION ANALYSIS

Section 1—Short title

The first section of the bill states the short title of S. 1108, the "Highway Safety Act of 1983".

Section 2—Definitions

Section 2 of the bill defines certain terms used throughout S. 1108.

"Multipurpose passenger vehicle" is a motor vehicle with motive power, other than a trailer, designed to carry 10 persons or less and constructed either on a truck chassis or with special features for occasional off-road operation.

"Passenger automobile" is defined as a motor vehicle with motive power, excluding multipurpose passenger vehicles, motorcycles, buses, trucks, or trailers designed for carrying 10 persons or less.

"Secretary" is defined as the Secretary of Transportation.

"State" includes the several States, the District of Columbia, Puerto Rico, the Virgin Islands, American Samoa, Guam, the Northern Marianas, or any political subdivision thereof.

TITLE I—AUTOMOTIVE SAFETY IMPROVEMENT

Section 101—Short title

This section provides that this title may be cited as the "Automotive Safety Improvement Act of 1983."

Section 102—Purpose

This section states that this title is part of Congress' continuing effort to address the critical highway safety problem facing this Nation.

Section 103—Findings

This section highlights the importance of Federal automobile safety regulations. The section notes that the Department of Transportation should be given explicit direction as to actions to be taken to save lives, reduce injuries, and reduce consumer costs of accidents. The section also emphasizes the importance of and need for effective and convenient occupant crash protection and states that crashworthiness information should be available upon the introduction of each new passenger car model.

Section 104—Bumper standards

Two sets of regulations comprise the bumper standard:

(1) the part 215 "safety" standard, promulgated in 1971 pursuant to the National Traffic and Motor Vehicle Safety Act of 1966; and

(2) the part 581 "no-damage" standard, promulgated in 1976 pursuant to both the Safety Act and the Motor Vehicle Information and Cost Savings Act.

Under these two statutes, the Federal bumper standard, until reduced by NHTSA in 1982, required protection of safety related and sheet metal parts of an automobile in a barrier crash and in an impact with a pendulum-type device at 5 mph for the front and rear bumpers and 3 mph at the corners. (As a result of meeting the pendulum tests, bumper heights were standardized at between 16 and 20 inches.) The amount of allowable damage to the bumper itself was limited to no permanent deviation greater than 3/4 inch from the original bumper position and no permanent surface deviation greater than 3/8 inch.

Over the last decade, more than 100 million cars have been manufactured with 5 mph bumpers. Public support for these protective devices has been overwhelming. They have resulted in massive consumer savings, not only in reduced repair costs but also in approved automobile safety. Indeed, the General Services Administration (GSA) itself has determined to purchase, for Government use, cars with stronger, 5 mph bumpers, notwithstanding the NHTSA decision to degrade the standard to 2.5 mph.

Consumer savings from 5 mph bumpers have been demonstrated in various tests. The Insurance Institute for Highway Safety, in February and September 1983 testimony before the Subcommittee on Surface Transportation, presented results of their crash tests comparing 5 mph and 2.5 mph bumpers. These results include the following:

1982–83 Models—Front-and Rear-End Crash Tests Damage Repair Cost Totals

Make and model	Model year	Bumper system [1]	All front-end tests	All rear-end tests	All tests
Honda Accord LX	1982	5	$1,037	$158	$1,195
	1983	2.5	2,581	934	3,515
Honda Civic 1500 DX	1982	5	909	174	1,083
	1983	2.5	1,235	580	1,815
Plymouth Horizon	1983	5	447	0	447
	1983	2.5	1,135	374	1,509
Plymouth Reliant	1983	5	1,076		
	1983	2.5	1,042		
Volvo GL	1982	5	756	0	756
	1983	2.5	1,721	463	2,184

[1] In miles per hour.

Note.—1983 Plymouth Reliants have "2.5 mph" bumpers only on the front end; 5 mph bumpers were retained in the rear. Consequently, rear-end crash tests were not performed.

FRONT- AND REAR-END CRASH TESTS DAMAGE REPAIR COSTS [1] 1984 FORD TEMPO AND 1983 HONDA ACCORD

Test	1984 Tempo (5 mph bumpers)	1983 Accord (2.5 mph bumpers)
5 mph front-into-barrier	0	$305
5 mph front-into-angle-barrier	$309	916
10 mph front-into-barrier	622	1,445
5 mph rear-into-barrier	0	207
5 mph rear-into-pole	0	782
Total	931	3,655

[1] Repair costs are based on July 1983 parts prices and a labor rate of $17 per hour. Criteria for bumper facebar damage were adapted from the DOT pt. 581 bumper standard requirements in effect between September 1, 1979, and July 6, 1982.

Source: Insurance Institute for Highway Safety.

This section requires NHTSA to reinstate the bumper standard as it existed on January 1, 1982; NHTSA must take this action within 1 year of the date of enactment. This standard will apply to automobiles manufactured for the model year after the date on which the standard is amended.

It is not the Committee's intent, however, that NHTSA be limited to a bumper standard only as strict as the 5 mph standard. The section does not preclude NHTSA from imposing a stricter standard which would require damage resistance at higher impact speeds.

Section 105—Side impact protection

This section reinstates the National Highway Traffic Safety Administration (NHTSA) rulemaking to upgrade side impact protection for automobiles and to extend the applicability of the standard to light trucks, vans, and multipurpose passenger vehicles. The final regulations implementing this standard are to be issued within 1 year after the date of enactment.

More than 9,000 Americans die each year in side impact crashes and approximately 20,000 suffer serious, nonfatal injuries. Seventy-one percent of the life-threatening automobile injuries occur in side crashes. The current side impact standard is effective in preventing death and serious injury in single-vehicle crashes where about 30 percent of the life-threatening injuries occur, but it is not effective in the 70 percent involving vehicle-to-vehicle crashes.

Research in the mid-to-late 1970's demonstrated that side impact crashworthiness of cars could be significantly improved with known technology. DOT's Research Safety Vehicle (RSV) program clearly showed that survivable side impact velocities could be increased from about 12 mph to over 30 mph for subcompact vehicles. For example, Calspan's RSV work found that addition of reinforcements, increased sheet metal gauge, and substitution of high-strength low alloy steel for mild steel in a 2,600 pound car would provide occupant protection in 40 to 45 mph side impacts. Both Minicars Corp. and Calspun found that filling side panels and doors with foam would reduce side impact intrusion to less than 6 inches in 30 mph or greater side impacts.

This improved technology should not be expensive. In March 1983 testimony before the Subcommittee on Surface Transportation, the Center for Auto Safety estimated that the cost for improving side impact crash protection would be less than $100. (The initial 1973 side impact standard added an average of $30—in 1977 dollars—to the price consumers paid for 1973 model cars.)

Section 106—Automatic crash protection

This section requires that each automaker that manufacturers at least 1.2 million cars and sells more than 200,000 cars in the United States offer airbags as an option in at least the largest-selling automobile line produced by that manufacturer, beginning with the 1986 model year.

Airbags are devices designed to protect automatically front-seat passengers from injury in frontal crashes (up to and including about 30 degrees to the left or right of head-on). The systems are typically designed to deploy after a serious (greater than 12 mph) barrier crash or the equivalent. These systems provide automatic, or passive, protection, while the lap/shoulder belts found in cars today are active systems requiring the occupant to buckle up in order to provide protection.

In the event of a serious crash, sensors hidden in the front end of the car transmit a signal to a canister containing pellets of sodium azide. An electric impulse initiates a chemical reaction that generates pure nitrogen (a gas comprising 70 percent of the air we breathe) which, in turn, inflates a large bag made out of a material similar to parachute cloth. The airbag inflates within a tiny fraction of a second after the impact and deflates quickly. This technology has been used for over a decade and even more sophisticated forms are under development.

NHTSA has conservatively estimated that use of airbags would save 8,500 lives each year and prevent 135,000 moderate to critical injuries. Other sources estimate that the life savings and injury reductions would be substantially greater than this NHTSA projection. Evaluation by DOT has shown that fatalities and serious injuries in airbag-equipped cars are about half the number in equivalent manual belt cars where belts are rarely used. Roughly 55 percent of all collisions are frontal and front-angle crashes in which airbag protection could prevent serious injury or death.

Seat belts are also very effective in reducing death and injury in car crashes. However, according to 1982–83 NHTSA data, only 13.6 percent of automobile drivers use their seatbelts.

Airbags have been thoroughly tested and have a proven record of effectiveness. A total of 12,187 airbag cars were sold in three test fleets (GM, Ford, and Volvo) and in GM's 1974–76 test-marketing program. NHTSA still keeps track of every crash in which one of those first airbag cars is involved. As of April 22, 1983, there had been 265 serious accidents involving airbag cars, with 376 people riding in bag-protected front seats. Only 7 people have lost their lives in the 12,187 airbag cars in crashes so severe that the integrity of the vehicle was compromised. There have been only 4 serious critical injuries and 49 moderate injuries, and 309 of the victims walked away or suffered only minor aches and pains.

Mercedes has produced its driver-side airbag system in 12,000 cars in Europe to date. Unofficial information shows that 31 accidents involving air-bag equipped Mercedes cars have occurred. Only 8 minor injuries were recorded, including those passengers who did not use seatbelts.

Airbags have been shown to be cost-effective. According to NHTSA figures, the annual decrease in fatalities and injuries resulting from the use of airbags, in contrast, would reduce economic costs to society by $4.2 billion (present value of 1982 dollars). Airbags can also reduce insurance costs. In 1973, Allstate Insurance Co., subsequently followed by many other insurers, announced a 30 percent discount on medical payment and no-fault personal injury "first party" coverages for airbag-equipped cars. The American Insurance Association earlier this year testified to the Subcommittee on Surface Transportation that a number of its member companies continue to offer similar premium discounts to persons who own cars equipped with passive restraints.

Auto manufacturers, however, traditionally have been reluctant to offer airbags under mandatory passive restraint requirements and have been even more reluctant to offer airbags as an option in the absence of any Federal requirement.

Automobile accidents represent one of the Nation's leading public health problems. Motor vehicle crashes are the leading cause of death in Americans under age 34. Congress decided in 1966, with passage of the National Traffic and Motor Vehicle Safety Act of 1966, that the Government should be in the business of improving safety. As a result, cars are now equipped with seatbelts, padded dashboards, collapsible steering columns, laminated windshields, and other safety equipment. The Committee believes that the requirement that cars contain airbags is a means of further improving vehicle safety.

Section 106 requires that each automobile manufacturer meeting specified production and sales criteria offer airbags, starting in model year 1986, in their respective automobile lines with the largest retail sales in the preceding model year. This requirement applies to companies which manufacture more than 1.2 million passenger cars worldwide each year and sell more than 200,000 cars annually in the United States.

The following table shows automobile sales of the domestic, Japanese and European automakers in the United States for 1982 and the first 8 months of 1983:

AUTOMOBILE SALES IN THE UNITED STATES

[In thousands]

	1982	1983[1]
GM	3,516	2,649
Ford	1,346	1,009
Chrysler	692	572
American Motors Corp	112	129
VW-USA	[2] 91	[1] 56
Honda-USA	0	27
Subtotal	5,757	4,442
Toyota	530	383
Nissan	470	371
Honda	366	238
Mazda	163	118
Subaru	150	108
Chrysler-Mitsubishi	102	69
Isusu	16	14
Mitsubishi	4	20
Subtotal	1,801	1,321
Volvo	72	63
VW	67	51
Mercedes	62	46
BMW	51	36
Audi	46	31
Renault	38	24
Saab	18	18
Fiat	14	5
Peugeot	14	10
Porsche	14	15
JRT	10	10
Subtotal	421	318

[1] For 8 mo. period.
[2] U.S. built only.

Source: U.S. Department of Transportation, Transportation Systems Center.

For the purposes of this section, an "automobile line" refers to a name which a manufacturer applies to a family of vehicles, within a make, which have a degree of commonality in construction, such as body, chassis, or cab type. Three examples of what is meant by an "automobile line" would be General Motors' Cadillac Sedan de

Ville and Coupe de Ville, General Motors' Chevrolet Citation, and General Motors' Chevrolet Impala and Caprice.

By requiring that manufacturers offer airbags as an option in their most popular automobile line, the Committee clearly intends that airbag technology be made available to the general public as quickly as possible. This provision is intended to supplement the ongoing rulemaking proceeding at the Department of Transportation concerning standard 208. The Committee does not intend that this provision should in any way affect the Department's ongoing reconsideration of the passive restraint standard, pursuant to the Supreme Court's ruling on this matter.

Section 106 requires manufacturers to offer as an option full front-seat airbags in their most popular automobile lines, based on the number of retail sales. If a manufacturer is planning to discontinue production in a subsequent model year of what was that company's bestseller in the previous model year, the Committee intends that the manufacturer would equip with airbags the automobile line with the second-highest level of retail sales in the preceeding model year. Automobile manufacturers do not relieve themselves of the requirement to install airbags in some of their cars by discontinuing production of their most popular car lines.

Section 106 requires manufacturers to offer airbags for sale and advertise their availability. The Committee intends that automakers ensure that airbag-equipped cars are available at dealer showrooms. Thus, customers will not be required to special-order such cars, thereby being forced to endure delay in acquisition of their cars and possibly pay a higher price for this special feature. The Committee also intends that manufacturers widely advertise the availability of airbags and inform the public of their safety characteristics. This advertising should be at a level comparable to that used by manufacturers when publicizing other features of their cars.

The section also specifies that airbags be offered by manufacturers at a "reasonable" price. The Committee intends that airbag systems be priced in a manner identical to that used for other components; this would include a reasonable manufacturer and dealer profit and amortization of the airbag system over a 3 to 5 year period. Moreover, the committee intends that manufacturers not couple the airbag with other, unwanted options, so as to impede sales of airbags.

The Committee expects the price of these airbag systems to fall within the general range of estimates presented to the Committee, or less. For example, the Automotive Occupant Protection Association estimates that it would cost $208 in 1983 dollars to install airbag systems for front seat occupants, based on an annual production of 2 million units. NHTSA has estimated a cost of $300 to $355 per car (1982 dollars) for full front seat airbags in a luxury version Lincoln Continental, based on an annual volume of more than 1 million units.

Section 106 requires installation of full front seat airbags meeting Federal Motor Vehicle Safety Standard 208 specifications, in the specified vehicles. This requirement differs from ongoing demonstration programs. The General Services Administration (GSA) has entered into an agreement with NHTSA to equip 5,000 Government fleet cars with driver side airbags to protect Government workers while driving and to ensure the continuation of airbags production capability. NHTSA is also sponsoring a demonstration test using State police cars retrofitted with airbags on the driver side only. Further, Mercedes-Benz is offering driver side airbags as an option on certain model year 1984 cars sold in the United States. This section, by contrast, requires installation of full front-seat airbags.

Section 107—Antilacerative windshields

This section requires NHTSA to allow the use of antilacerative windshields in automobiles manufactured on or after September 1, 1984.

Since the 1968 model year, all vehicles sold in the United States have contained 3-layer, laminated high penetration resistant (HPR) windshields. The HPR windshields prevents an occupant's head from pentrating the windshields during a collision, greatly reducing life-threatening lacerations from windshields in accidents. Nevertheless, the inner and outer glass does shatter, leaving edges of broken glass on the inner surface. This results in more than 300,000 laceration injuries to passenger car occupants each year.

The "Securiflex" safety windshield, which molds a thin layer of a special clear plastic on the interior surface of the windshield, has been developed in Europe by Saint-Gobain Vitrage. The plastic film acts as a shield between occupants and shattered glass. This windshield has been installed in automobiles sold in Europe, with excellent performance. The windshield does not, however, meet U.S. requirements for interior surface scratch resistance, allthough it does meet all other safety standards. Libby Owens Ford has also developed in the United States a comparable safety windshield using somewhat different technology.

The Securiflex windshield has been in use in Europe since 1978 and is in use on European highways in more than 100,000 cars manufactured by Audi, Porsche, Opel, and Peugeot. These automobiles have been exposing the antilacerative windshield to all elements: tropical heat, extreme cold, sea atomsphere, Alpine high altitude, ultraviolet attach, dust, dirt, and the lack of care that would be typical of many drivers. Further, field tests over a 5-year period, exposing Securiflex windshields to all types of climatic conditions, have demonstrated no deterioration in properties or performance. Under a joint Insurance Institute for Highway Safety (IIHS) Ford-Maryland State Police project, a test fleet of Ford/manufactured police cars has been equipped with Securiflex windshields. An interim report on the testing showed the performance of the windshield to be satisfactory in every respect. According to IIHS, roughly 625,000 hospital-treated facial injuries occur each year in the United States in motor vehicle accidents; this number could be reduced substantially if antilacerative windshields were built into cars. The Consumer Product Safety Commission estimates that more eye injuries are related to motor vehicles than to any other single product. In 1981, there were 29,777 eye injuries, 3,800 of which involved the windshield. Many groups, including the National Society to Prevent Blindness, argue that the vast majority of such injuries would not have occurred or would have been considerably less severe if motor vehicle had been equipped with antilacerative windshields.

Research cited by Saint-Gobain Vitrage in March 1983 testimony before the Subcommittee on Surface Transportation showed that 310,000 people suffer lacerative injuries caused by windshield glass each year. The cost of emergency room treatment for these injuries was estimated to exceed probably $8.5 million annually. In addition, 46,000 of these cases are treated by office-based plastic surgeons at an estimated cost of $4.5 million per year.

The Committee expects that autombile manufacturers will be able to offer the antilacerative windshields at a reasonable price. In March 1983 testimony before the Subcommittee on Surface Transportation, Saint-Gobain Vitrage estimated the additional cost to American automobile manufacturers for the inclusion of such windshields to be $30 per vehicle, on a volume production basis.

NHTSA issued a Notice of Proposed Rulemaking early in 1983 to amend standard 205, the existing windshield regulation, to permit the use of antilacerative windshields in the United States. Section 107 requires NHTSA to complete quickly this rulemaking proceeding so that these safety windshields can be available to the American public on 1985 model cars.

Section 108—Truck occupant protection

This section directs NHTSA to undertake a study of crash protection for truck occupants. The study is to investigate potential and known hazards to truck occupants and means of improving truck occupant safety, and evaluate potential performance standards to be met by manufacturers. This study is to be submitted to Congress within 1 year of the date of enactment. This section authorizes appropriations of such sums as are necessary in fiscal 1984 and 1985 to undertake this study.

Little attention has been given by the Government to truck occupant protection. For example:

(1) NHTSA is the only agency with authority to set occupant protection standards for trucks. The few existing standards for heavy trucks were established years after comparable standards were set for passenger cars. Many occupant protection standards that were set 10 to 15 years ago for passenger cars have never been established for trucks. For instance, crashworthiness standards for heavy trucks have not been established to give drivers adequate protection.

(2) The design of the truck steering wheel has been neglected, even though abdominal injuries repeatedly have been shown to be especially common in injured truck drivers.

(3) Changing the design of products (for example, multipiece truck wheels which often explode) could substantially reduce the risk of injury for workers.

(4) Despite the fact that seatbelts, when used, substantially reduce deaths and severe injuries to automobile occupants, OSHA has not promulgated regulations to require their use in company-owned cars. Further, most employers (including the Government) either do not require or do not enforce seatbelt use.

Truck occupant protection is a major safety and occupational health problem. Occupational injuries in the United States result in an estimated 13,000 deaths, 245 million lost work days, and $25 billion in direct and indirect costs each year. Motor vehicle crashes are the leading cause of fatal injuries in the workplace. This is an especially important concern in the trucking industry which employs roughly 2 million drivers in the United States. According to NHTSA figures, in 1981, 1,131 occupants of heavy trucks died in the United States.

According to March 1983 testimony presented by the International Brotherhood of Teamsters before the Subcommittee on Surface Transportation, truck drivers sustained 9.9 percent of all work-related fatalities, yet comprise only 2.7 percent of the employed workforce, according to 1979 Department of Labor statistics. According to March 1983 testimony presented by Johns Hopkins University before the Subcommittee on Surface Transportation, the death rate of truck drivers is much higher than that of the average worker. For example, in Wisconsin, a truck driver has approximately 9 times as great a chance of being killed on the job as the average worker, while in Maryland, 1 out of every 10 workers killed is a truck driver.

Section 108 requires NHTSA to investigate hazards to truck occupants. The Committee expects NHTSA to consider at least the following: the need for truck cabs that do not collapse easily in a crash and that make it possible to remove injured occupants easily; the need for steering wheels that do not focus crash forces on a small area of the abdomen; glass retention; passive and active occupant restraints; and cab size/driver accommodation.

Section 109—High-mounted rear stoplamps

This section directs NHTSA to promulgate a rule requiring installation of high-mounted rear stoplamps in all cars manufactured on or after September 1, 1984.

Each year, there are 3 to 4 million rear-end collisions, resulting in over 2,300 deaths and a cost of more than $18 billion. Government tests show that high-mounted rear stoplamps could reduce rear-end collisions by 50 percent by making cars more visible. These stoplamps provide a more effective brake warning than the current system to drivers following behind a car. NHTSA found, in an 18-State study evaluating real world experience with high-mounted brake lights, that passenger cars with the high-mounted light experienced a 53 percent reduction in rear-end collisions.

A similar type of device, a deceleration warning light system, was tested in 1974 on taxicabs in San Francisco for 12.3 million miles of normal on-road driving. This system, an amber light center mounted on the rear of 343 taxicabs, reduced the rear-end collision rate by 60.6 percent compared to the rate for a concurrent control group of 160 cabs.

The Committee does not expect that addition of this technology to all cars will be expensive to consumers. For example, the Deceleration Alert System, which is activated upon release of the accelerator, represents .003 percent of a new car's equipment (that is, in a $7,000 car, the device would cost $21). When retrofitted, the device represents .0079 percent of the car's cost (that is, in a $7,000 car, the device would cost $55.30). This device is currently mounted on Secret Service cars and the Department of Defense's overseas fleet.

Federal Motor Vehicle Safety Standard 108 governs braking lights for motor vehicles. Section 109 requires NHTSA to amend this standard to require installation of high-mounted rear stoplamps starting with model year 1985 cars. The Committee does not intend, however, to limit NHTSA solely to consideration of high-mounted brake lights. Deceleration warning systems have also proven effective in reducing rear-end collisions and should be considered by the agency.

Section 110—Automobile crashworthiness data

This section requires the Secretary of Transportation to promulgate a safety standard establishing passenger car crashworthiness and labeling requirements for cars manufactured on or after September 1, 1984. The Secretary is also required to prepare a booklet regarding the crashworthiness of passenger cars and other pertinent information. The Secretary shall furnish copies of this booklet to manufacturers for distribution to car dealers.

This safety standard is to provide a method for calculating a uniform numerical crashworthiness rating. Automobile manufacturers will be required to certify each model's crashworthiness to the Secretary and to affix a label to each car indicating that model's crashworthiness rating. This labeling and certification will be based on performance criteria established by the Secretary related to: Crash protection for occupants with and without manual seatbelts; windshield mounting; windshield zone intrusion; fuel system integrity; and other aspects affecting crashworthiness, as considered appropriate by the Secretary.

The Secretary is required to establish procedures requiring automobile dealers to make the crashworthiness information developed by the Secretary available to prospective car purchasers. The Committee expects that, in addition to the labels attached to each car, the more detailed comparative crashworthiness information will be readily available in dealer showrooms.

Title II of the Motor Vehicle Information and Cost Savings Act requires the Secretary to compile information regarding:

(1) damage susceptibility of passenger motor vehicles;
(2) degree of crashworthiness;
(3) characteristics of such vehicles with respect to ease of diagnosis and repair of mechanical and electrical systems; and
(4) vehicle operating costs dependent upon the above.

The Secretary is required to furnish this information to the public in a "simple and readily understandable form in order to facilitate comparison among the various makes and models of passenger motor vehicles."

A Notice of Proposed Rulemaking issued in January 1981 would require manufacturers to print crashworthiness ratings on the windshields of new cars. The proposed program would provide consumers with information on the safety performance of new cars in the dealer showroom and would encourage manufacturers to compete on the basis of vehicle crash safety. No subsequent action has been taken on this notice.

In 1981, a consumer guide to car buying, The Car Book, was published; over 1.25 million copies were mailed to consumers. NHTSA decided, however, not to print a 1982 edition of this book. (A 1982 edition, and later a 1983 edition, were published privately.) Since that time, the release of car crash data has been sporadic.

Another consumer information service, the NHTSA auto safety hotline, was established on a temporary basis in 1975 and was made permanent in 1977. Its primary purpose was to respond to specific questions from consumers about potentially defective cars. In February 1982, NHTSA announced that it was starting an "expanded" hotline to provide more information to the public. So much information has been consolidated into this program, however, that it is extremely difficult to convey any of it over the telephone. Information that is requested is often sent to the caller in a complex, technical format, difficult for the layman to read.

Consumers are interested in having this type of information available. A 1981 NHTSA survey of 2,331 recent or prospective new car purchasers found that 78 percent of those surveyed agreed with the statement made by interviewers that they "like the idea of Government ratings of things, like safety and maintenance costs." Further, more than 71 percent of the respondents said they would be willing to spend an additional $400 for a safer car.

The Committee believes the actions specified in section 110—a simple labeling requirement and publication of a consumer information booklet—can clearly be accomplished within the funding authorized in 1982 in H.R. 6273 to carry out title II of the Motor Vehicle Information and Cost Savings Act: for fiscal year 1984—$1.8 million; for fiscal year 1985—$1.95 million. Further, current procedures are quite costly. According to a 1982 report by Public Citizen, it is 8 times more costly for NHTSA to fill orders for The Car Book through the hotline than for consumers to obtain it directly through the Consumer Information Center in Pueblo, Colo. (The cost to send The Car Book from Pueblo is 21 cents per copy; when processed through the hotline, it costs $1.60 for postage, handling, and processing, not including operator time to handle the request.)

Section 111—Study of safety related devices

This section requires the Secretary of Transportation to undertake a study of the safety improvement potential of devices such as flare kits and distress signalling systems. These devices would be carried in all motor vehicles. This study is to be submitted to Congress by September 30, 1984. This section authorizes appropriation of such sums as are necessary in fiscal year 1984 to undertake this study.

Prior to 1973, DOT regulations provided buses, trucks, truck-tractors, and other motor driven vehicles with a choice of type of emergency warning device, or a combination thereof. In October 1979, a Notice of Proposed Rulemaking was issued by the Bureau of Motor Carrier Safety which was designed to make regulations consistent with Federal Motor Vehicle Safety Standard 125. The new regulations provided that a vehicle must carry a reflective triangle and could also carry fuses (flares), red electric lanterns and liquid burning pot flares.

At that time, there was a movement to make traffic signs and signals conform to an international pattern. In some foreign countries the signal for a stopped vehicle in an emergency situation was a reflective triangle. In the rulemaking proceeding, therefore, it was generally accepted that reflective triangles and fuses would be the authorized emergency warning devices. Other types of warning devices would be "phased out." Ultimately, the reflective triangle was designated as the only required emergency warning device, despite recognition by the vast majority of the parties participating in the proceeding that flares provide greater warning capability than reflective triangles.

Another concern is distress signalling for stranded automobile occupants. When a car becomes disabled, this presents a risk to that vehicle's occupants as well as to the drivers sharing the highway with the disabled motorist. Poor visibility of disabled vehicles of all types can present significant safety problems.

Section 111 requires DOT to conduct a study of the effectiveness of existing regulations regarding emergency warning devices required to be carried on buses, trucks, truck-tractors, and motor-driven vehicles which are involved in emergency situations. The study shall also investigate the potential costs and benefits of requiring passenger automobile operators to carry emergency warning devices, and shall examine the relative benefits of various types of warning devices in enhancing highway safety.

The Committee intends that DOT's report to the Congress fairly evaluate and determine the safest emergency warning device to be used by regulated vehicles and determine whether passenger automobiles should be required to carry any type of distress signaling system.

Section 112—Imported vehicles

This section strengthens the requirement that vehicles imported into the United States are to meet U.S. safety and emissions standards. A problem of increasing importance in the United States is the importation of cars which are not designed for the U.S. driving environment and this country's safety, emissions, and fuel economy regulations.

Current regulation covering the importation of vehicles by individuals who intend to have foreign products "upgraded" to U.S. specifications was developed over a decade ago to alleviate hardships for U.S. military and foreign service personnel returning to the United States from Europe with cars purchased overseas. This may have been timely in the late 1960's and early 1970's when foreign manufacturers did not have a wide selection of U.S. specific models available from their overseas factories and when modification were practicable (for example, at that time, safety standards regulated primarily "add-on" equipment).

Since the mid-1960's, these special importation provisions have become a loophole through which entrepreneurs, operating outside of the importing and distributing companies of bona fide manufacturers, have created a "grey market" for importing illegal vehicles into the United States. The manufacturers of these models do not want them imported into this country; manufacturers today have a wide range of certified U.S. models available through their authorized importation, distribution, and dealer network.

This problem appears especially severe in the case of Volkswagen Beetles, which are being imported from Mexico. (The importation of this car was discontinued by Volkswagen in the late 1970's because the car was not designed to meet U.S. safety and emission standards.) Other cars frequently imported illegally are Jettas, Rabbits, and some Datsuns. A Mexican firm, which says the Beetles are upgraded to meet U.S. standards, is hoping eventually to import and convert 1,000 Beetles a year. The importation of these cars is not illegal so long as they will be brought into conformance with the U.S. safety and emissions standards. There is evidence, however, showing that cars imported in this manner do not always meet the U.S. standards.

Section 112 amends the National Traffic and Motor Vehicle Safety Act of 1966 to delete that language from the act which permitted imported vehicles to be brought into conformity under bond, leading to the present situation. Two exceptions are included in the amendment: (1) one-time only importation of a nonconforming vehicle 5 or more years old (for example, and antique foreign car); and (2) hardship cases.

TITLE II—DRUNK AND DRUGGED DRIVING PREVENTION

Section 201—Short title

This section provides that this title may be cited as the "Motor Vehicle Passenger Protection Act of 1983."

Section 202—Purpose

This section states that the purpose of this title is to encourage States to take effective action to reduce traffic safety problems resulting from persons driving under the influence of alcohol or other drugs and to promote child passenger safety.

Section 203—Findings

This section states that it is in the public interest to reduce drunk and drugged driving on our Nation's highways; that public awareness of the drunk and drugged driving problem must continue to be increased; that there is a direct correlation between the minimum legal drinking age and alcohol-related crashes; that States should be encouraged to increase the minimum legal drinking age and to modernize traffic record systems; and that States should be encouraged to require use of child passenger safety seats.

Section 204—Drugged driving

This section amends the provisions of the drunk driving legislation enacted in 1982 (Pub. L. 97-364) by adding enforcement of drugged driving laws and establishment of research programs as one of the supplemental criteria States may meet in order to receive additional incentive grant funds.

Public Law 97-364 provides for a two-tiered incentive grant program to help States to combat the drunk driving problem; a total appropriation of $125 million over fiscal years 1983-85 is authorized for the grant program. States become eligible for a basic grant if they meet 4 criteria: (1) prompt license suspension for drunk drivers; (2) mandatory imprisonment or community service for repeat offenders; (3) a 0.10 percent blood alcohol content (BAC) as per se evidence of intoxication; and (4) increased enforcement and public information efforts. States can qualify for additional funding under a supplemental grant if they meet additional criteria. States must meet 8 of the 21 supplemental grant criteria specified by NHTSA to be eligible for a full supplemental grant. Adoption of 4 supplemental criteria qualifies a State for a one-half grant.

Section 204 enables States to use establishment of drugged driving programs as a criterion to qualify for the supplemental grants. The Committee expects that this provision will not only serve to increase overall awareness of the drugged driving problem, but also to encourage States to develop effective means of detecting the presence of drugs when a driver is apprehended.

Drugged driving is becoming an increasingly significant highway safety problem. Research conducted to date shows that the use of drugs other than alcohol—either alone or in combination with alcohol—can cause significant driver impairment. Given the increases in drug use in recent years, especially among young people, the drugged driving problem is expected to become more severe. The National Safety Council has identified driving while under the influence of drugs other than alcohol as a serious problem.

For example:

> A 1978 California Department of Justice study found that 16 percent of the 1,792 randomly selected blood samples from drivers arrested for traffic accidents or for driving under the influence of drugs has sufficient THC (a marijuana agent) content to constitute marijuana intoxication.
>
> An August 1980 study at the Pittsburgh Institute for Driver Research and Substance Abuse showed that the driving impairments caused by marijuana plus alcohol are more than additive; one drug potentiates the other.
>
> The National Association of Independent Insurers estimates that 40 percent of teenagers have driven while "high" on marijuana.
>
> A study performed at the University of British Columbia with 64 students found that those who had received a low-dose "joint" had a 42 percent decrease in driving skills while those who received a high-dose "joint" had a 63 percent decline in driving skills.

States are becoming more aware of this problem. In May 1983 testimony presented before the Senate Commerce Committee, the National Association of Governors' Highway Safety Representatives (NAGHSR) reported that many States already take into account the issue of other drugs besides alcohol in their drunk driving statutes. Statutory definitions of such terms as "chemical test" and "intoxicated" have been altered to mean the presence of controlled substances as well as alcohol.

It is the Committee's intent that section 204 increase public awareness of the drugged driving problem and encourage States to increase research on the effects of drugs on driving ability.

Section 205—Drinking age, traffic records, and child safety seats

This section provides Federal grants to States to: (1) enact laws setting the drinking age for all alcoholic beverages at 21, along with appropriate "dram shop" laws. States with such laws would be eligible for grants equal to 10 percent of the State's apportionment for each of the fiscal years 1984 and 1985 under the section 402 (of title 23) highway safety program; (2) implement accident-reduction projects through use of computerized safety recordkeeping systems designed to produce data regarding accident incidents or potential sites for accident incidents. States with such programs would be eligible for grants equal to 20 percent of the State's apportionment for each of the fiscal years 1984, 1985, and 1986 under the section 402 highway safety program; and (3) enact laws requiring the proper use of child safety seats. States with such laws would be eligible for grants equal to 10 percent of the State's apportionment for fiscal years 1984 and 1985 under the section 402 highway safety program.

Section 205(a) addresses drunk driving. The Committee believes that States must be encouraged to raise the minimum legal drinking age to 21. Statistics show the magnitude of this problem.

According to the National Safety Council, people between the ages of 15 and 24 are the only group of Americans whose life expectancy has fallen during the past 15 years. The major cause of death for this group is motor vehicle fatalities, with many of those deaths attributable to drinking and driving.

Twenty-nine percent of persons between 16 and 19 involved in a fatal accident are at or above the .10 percent BAC level; on weekends that figure rises to 56 percent. An estimated 130,000 teenagers are injured each year in drunk driving accidents; 14 die every day and another 360 suffer injuries daily.

According to the National Transportation Safety Board, in 1981, 20 percent of the drivers involved in alcohol-related fatal accidents were under 21 years of age, yet these drivers represented only 8 percent of the licensed drivers and drove only 9 percent of the total vehicle miles.

Allstate Insurance Co. has estimated that teenage drunk driving accidents cost society close to $6 billion per year in damage, hospital costs, lost work, etc.

Teenage drivers kill other people more often than themselves. More than one-half of the persons killed by teenager drivers in 1978 were passengers in their cars or drivers or passengers in other vehicles. The majority of persons killed by drivers 21 and over were the drivers themselves.

Data collected by the National Transportation Safety Board show a direct correlation between minimum drinking age and alcohol-related accidents in the 18-to-21 year-old age group. For example, in Michigan, where the drinking age was raised from 18 to 21, in the first 12 months after the legislation was enacted, a study showed a decrease of 21 percent in alcohol-related accidents among drivers 18 to 20. In Illinois, a study showed an 8.8 percent decrease in "single vehicle nighttime male driver" accidents involving drivers 19 to 20 when the drinking age was increased in 1980.

It is important to note that a large majority of the public supports increasing the drinking age to 21. A January 1983 Gallup poll showed that 77 percent of all persons polled and 58 percent of the 18, 19, and 20 year-olds agreed with the idea of raising the drinking age to 21.

The Committee also believes that persons who sell liquor to an underage individual should be held legally responsible for this action in accordance with the laws of each State.

Section 205 does not require a State to have a minimum legal drinking age of 21; rather, it provides a financial incentive to States to enact laws setting the drinking age at 21 and rewards those States which already have done so. The matter is left to each State's discretion.

Section 205(b) establishes a grant program to encourage States to implement accident-reduction projects through use of computerized safety recordkeeping systems. The Committee expects that these systems will be used not only to provide improved identification of dangerous highway locations which, in turn, will help reduce drunk driving and other accidents, but also to enable States effectively to tie into the computerized National Driver Register (NDR) system, envisioned for the mid to late 1980's.

The NDR, established by Public Law 86-660 and which started operations in 1961, is a nationwide clearinghouse through which a State can identify driver's license applicants who have established unsafe driving records in other States. This record can then be taken into account in deciding upon the license application. The major drawback to the NDR is that the medium of communication used between States and the NDR is the postal service, resulting in delays between the time a State makes its inquiry and the time it receives a response from the NDR. Often the individual in question receives his or her new license before this response is received; at that point, it may be impossible to lcoate the individual again in order to revoke the license.

Public Law 97-364, enacted in October 1982, provides for a computerized NDR system. The bill provides for a four-State pilot program within 2 years after the date of enactment to test an electronic NDR system. Based on the results of this program, the Secretary will then determine when the remaining States could join the system.

The Committee believes that improvements in State accident location and recordkeeping systems will promote highway safety. The funds authorized under this incentive grant program are aimed at encouraging States to take such action.

In May 1983 testimony before the Committee, the National Association of Governors' Highway Safety Representatives (NAGHSR) stated that existing State highway reference systems for traffic accident reporting and/or enforcement activities need to be upgraded to include an accurate site registration system which will identify locations on both State and locally maintained roads and streets. Although virtually every State has computer capability for highway safety referencing and recordkeeping, each is developed to varying degrees. Some States, such as Michigan, have statwide highway reference systems currently in operation.

Other successful programs include New York's traffic safety law enforcement and disposition (TSLED) program which has been successful in compiling statistical data on speeding and drunk driving violations. This ultimately has helped the State in its total drunk driving enforcement and adjudication efforts. Likewise, Minneapolis' crash reduction project, implemented in July 1981, selectively deploys existing city manpower and resources to those segments of roadway with a higher than normal accident rate. (Statistical analysis revealed that 25 percent of all reported accidents occurred on only 2 percent of the roadway system.) Since July 1981, compared with the previous 3-year period, fatal and personal injury crashes have decreased 32 percent and total crashes are down 26 percent.

Section 205(c) provides incentive grants to States which have child passenger safety seat laws. States are to require use of these safety seats for children under 5 years of age or who weigh less than 40 pounds.

Child passenger safety seats have been shown to save lives and reduce injuries. In March 1983 testimony before the Subcommittee on Surface Transportation, the NTSB stated that it believes that proper use of safety seats could prevent 90 percent of child fatalities and a vast majority of serious injuries to children.

States have made significant progress in achieving enactment of child safety seat laws; 40 States and the District of Columbia have such laws. Efforts must now be made to increase public awareness of these laws and strengthen enforcement. Section 205 is aimed at promoting State implementation and enforcement efforts in this area.

Section 205(d) authorizes an appropriation of $44.5 million for fiscal 1984, $48.5 million for fiscal 1985, and $30 million for fiscal 1986 for the incentive grants. The final regulations implementing this grant program are to be issued within 240 days of the date of enactment of this act.

Section 206—Maximum national blood alcohol content

This section requires the Secretary of Transportation to establish a nationwide blood alcohol content standard for determination of unlawful operation of a motor vehicle and to establish procedures for the seizure and sale of motor vehicles of persons convicted of a second violation of the applicable blood content standard. This section also establishes a fund in each State to compensate uninsured victims of drunk drivers or their estates. This fund is to be composed of: the proceeds from the sale of motor vehicles seized pursuant to this section; funds authorized by Congress or the Secretary; and designated tax revenues an individual State may authorize on the sale of publicly served alcoholic beverages. This section also provides that 15 percent of a State's highway funding apportionment under section 104 of title 23 is to be withheld until the Secretary certifies that the State has in effect a statute or program that is consistent with this section.

Section 207—Oversight

This section requires annual congressional oversight hearings for 3 years following the date of enactment of this title in order to review the implementation and effects of this legislation.

TITLE III—MOTOR CARRIER SAFETY

Section 301.—Short title

This section provides that this title may be cited as the "Motor Carrier Safety Act of 1983."

Section 302.—Purpose

This section states that the purpose of this title is to promote the safe operation of commercial motor vehicles in or affecting interstate commerce, to minimize dangers to the health of commercial motor vehicle operators and other employees whose employment directly affects motor carrier safety, and to assure increased compliance with traffic laws and with the commercial motor vehicle safety and health rules and regulations issued pursuant to this title. The Committee continues to be concerned about the safety of commercial motor vehicle equipment and the safety records of drivers.

Section 303.—Findings

This section states that the Congress finds: that it is in the public interest to enhance motor vehicle safety; that improved, more uniform commercial motor vehicle safety measures and strengthened enforcement would reduce fatalities, injuries, and property damage related to commercial motor vehicle operations; that enhanced protection of the health of commercial motor vehicle operators is in the public interest; and that States can play an important role in enhancing motor carrier safety.

Section 304.—Definitions

This section defines various terms as used throughout this title. One of the most significant of the definitions is contained in section 304(1), "commerce." At present, the Secretary of Transportation is empowered to regulate commercial motor vehicle safety primarily with regard to vehicles that cross State lines or national boundaries or perform the intrastate portion of a continuous interstate movement. This class of vehicles is operated primarily by carriers who must obtain operating authority from the Interstate Commerce Commission (ICC) plus private and exempt interstate carriers. This definition would authorize the Secretary to promulgate regulations regarding the safety of commercial motor vehicle operations both in and affecting interstate and foreign commerce.

The definition of "commercial motor vehicle" in section 304(2) includes vehicles used on the highways in commerce which are: (1) 10,000 pounds gross vehicle weight rating or more; (2) designed to transport more than 15 passengers, including the driver; or (3) used in the transportation of hazardous materials (found to be hazardous by the Secretary for purposes of the Hazardous Materials Transportation Act, 49 U.S.C. 1801 et seq.). The 10,000-pound limit is proposed to focus enforcement efforts and because small vans and pickup trucks are more analogous to automobiles than to medium and heavy commercial vehicles, and can best be regulated under State automobile licensing, inspection, and traffic surveillance procedures. However, all vehicles designed to transport 15 or more persons, except school buses when used to transport school children to and from school or school events, would also be covered to assure the highest levels of safety in this particularly important transportation area. In addition, vehicles transporting hazardous materials would be covered because of the potentially greater safety dangers in this area.

The definition of "employee" in section 304(3) includes any individual other than an employer who is employed by a commercial motor carrier and directly affects commercial motor vehicle safety, such as (1) a driver of a commercial motor vehicle (including for purposes of this title any independent contractor while in the course of personally operating a commercial motor vehicle); (2) a mechanic; or (3) a freight handler.

An employer is defined in section 304(4) as any person engaged in a business affecting commerce who owns or leases a commercial motor vehicle in connection with that business, or assigns employees to operate it in commerce.

Independent owner-operators' employment status posed a unique problem to the drafters. An independent owner-operator owns his own truck and drives it. He also may own several other trucks and have several drivers working for him. There was no question that the commercial motor vehicles he drives and his driving should be subject to the same safety rules as other commercial motor vehicles on the highway. All commercial motor vehicles if improperly maintained or operated pose a significant threat to the public safety.

It was decided that where an independent owner-operator has the primary responsibility for the maintenance and operation of his commercial motor vehicle or vehicles he should be considered an employer and be subjct to the penalty provisions for employers. This is appropriate because the owner-operator does have primary control over the vehicle. Yet the Committee was sensitive to the fact that the financial status of certain owner-operators is closer to that of employees who are subject to much lower penalties. Therefore, in the actual language of section 309 relating to penalties and the report language accompanying the section, the Committee makes clear that, in determining the amount of the penalty, financial status (among other factors), is to be taken into account.

This section also defines the term "person".

Section 305.—Duties

This section requires employers and employees to comply with the health and safety rules, regulations, standards and orders issued pursuant to this title.

Section 306.—Regulatory authority and standards

This section requires the Secretary of Transportation to establish and revise as necessary rules, regulations, standards, and orders to further the purposes of this title. The section provides that they shall be directed to assuring that (1) commercial motor vehicles are safely maintained, equipped, loaded, and operated; (2) the responsibilities imposed on a driver do not impair his ability to operate the vehicle safely; (3) the physical condition of drivers is adequate to enable them to drive safely; (4) the operation of commercial motor vehicles does not create deleterious effects on the physical condition of such drivers.

The Secretary is required to consider, where practicable, costs and benefits before establishing or revising such rules, regulation, standards, and orders. In requiring the Secretary to consider costs and benefits, where practicable, in the course of regulatory activities, the Committee realizes that many aspects of safety and health regulation do not lend themselves to detailed cost-benefit analysis. However, the Committee intends that DOT, in issuing a regulation, will perform some type of cost-benefit analysis, recognizing that while the benefits of a particular rule or regulation may be substantial, they may not be quantifiable. Additionally, the Committee does not intend such requirement to have the effect of precluding, preventing, or suspending the promulgation or revision of rules, regulations, standards, or orders due to difficulty in establishing specific, quantified cost or benefit data.

This section also requires the Secretary of Transportation to promulgate rules or regulations, both those under this title and those under current law, within 1 year after commencing a proceeding. The Committee intends that the date of publication of a Notice of Proposed Rulemaking constitute the commencement of a proceeding. If this is not possible, the Secretary is required to keep the Congress informed of the reasons for the delay and the efforts and progress being made to complete the proceeding. The purpose of this section is to provide incentives to the Department of Transportation to promulgate rules and regulations in a timely manner.

Section 306(c) allows the Secretary to waive the application of any rule, regulation, standard, or order if such waiver is not contrary to the public interest and is consistent with the safe operation of commercial motor vehicles. This provision should be used with extreme care and should only be used if the Secretary has developed sufficient information to provide adequate assurance that such waiver will not adversely affect the safe operation of commercial motor vehicles.

Section 306(d) directs the Secretary of Transportation, in consultation with the Director of the National Institute for Occupational Safety and Health and the Secretary of Labor, to conduct a study of health hazards to which employees engaged in the operation of commercial motor vehicles are exposed and to develop findings regarding the most appropriate method for regulating and protecting the health of operators of commercial motor vehicles. This study is to be submitted to Congress within 1 year of the date of enactment. The Committee understands that DOT will fund this study out of previously authorized funds.

Section 306(e) requires the Secretary of Transportation to coordinate the activities of Federal agencies to ensure adequate protection of the safety and health of operators of commercial motor vehicles. The Secretary is also directed to attempt to minimize paperwork and other burdens.

The Committee believes it is important to clarify the respective roles of the various Federal agencies in ensuring the safety of commercial motor vehicle operations and the health of operators.

The Secretary of Transportation has the responsibility of protecting the public from unsafe commercial motor vehicles and assuring that commercial motor vehicles are safely maintained, equipped, loaded, and operated, and, therefore, is responsible for related matters insofar as failure to observe pertinent regulations would adversely affect the safety of the public or the health and safety of operators of commercial motor vehicles. However, the Secretary of Transportation is not responsible for protecting employees from asbestos fibers, and toxic fumes involved in the course of properly repairing a brake, nor for the protection of employees from slippery walking surfaces or from inadequately braked forklift trucks, which activities continue to be the responsibility of the Department of Labor.

It is the intent of the Committee that nothing in section 306 of the bill alter this state of affairs which has developed under existing provisions of law. Rather the Committee intends to reaffirm the scope of DOT's authority to regulate safety in this area.

At the same time, the Committee has concluded that neither Department has focused its attention to the extent the Committee believes desirable upon the hazards that commercial motor vehicle drivers face in the course of their work. The Committee bill therefore directs the Secretary of Transportation, in consultation with the Director of the National Institute for Occupational Safety and Health and the Secretary of Labor, to conduct a study of safety and health hazards to drivers, so that the two regulatory authorities will have the information necessary to determine the extent to which they should utilize their respective expertise to deal with these problems.

Section 306 does not provide additional or new regulatory authority to the Secretary of Labor or the Director of the National Institute for Occupational Safety and Health; the DOT Secretary is mandated under this bill to assure the protection of the safety and health of operators while operating commercial motor vehicles. This section requires the Secretaries and the Director to make every attempt to avoid overlap or duplication of activities and to coordinate their efforts. The Committee intends, in the exercise of its regular oversight authority, to follow further developments in this areas of concern.

Section 307—General Powers

This section provides the Secretary of Transportation with broad administrative powers to assist in the implementation of this title.

This section also requires the Secretary or his agents, in carrying out investigation functions, to consult with employers and employees and their authorized representatives and offer them a right of accompaniment, as appropriate. The Committee does not intend this requirement to limit unduly DOT inspections or to prevent DOT from undertaking surprise inspections, as is current practice in certain cases. The Committee does, however, intend that employers and employees be consulted and offered a right of accompaniment whenever possible, without hampering DOT inspection efforts.

The Committee understands that DOT possesses the necessary authority under current law to obtain warrants as needed to conduct such inspections.

Section 308—Duty to investigate complaints; protection of complainants

This section requires the Secretary of Transportation to investigate nonfrivolous written complaints alleging a material violation of this title. the Secretary is also required to take steps to protect the identify of complainants.

Section 309.—Penalties

Section 309(a) amends section 507 of title 49, United States Code, to allow the Attorney General, at the request of the Secretary of Transportation, to bring an action for equitable relief to redress a violation of this Act or existing Federal commercial motor vehicle safety standards.

Section 309(b) amends section 521(b) of title 49 to set forth civil and criminal penalties available to the Secretary for enforcing violations of this act or existing. Federal commercial motor vehicle safety standards and the procedure for the Secretary to follow if he finds that a violation has occurred. The Committee believes the broader penalty authority and increased penalty levels set forth in this section are necessary to ensure increased compliance with the Federal commercial motor vehicle safety regulations.

Subsection (b) provides for a civil penalty of up to $500 for a recordkeeping violation. The total of all recordkeeping violations shall not exceed $2,500, and recordkeeping is the only violation for which penalties are cumulative. If the Secretary determines that a substantial health or safety violation exists or has occurred which could reasonably lead to or has resulted in serious personal injury or death, a civil penalty of up to $10,000 may be assessed for each offense. However, no civil penalty, except recordkeeping penalties, may be assessed against an employee unless the employee is the operator of a commercial motor vehicle and the Secretary of Transportation determines that the employee's actions constituted gross negligence or reckless disregard for safety, in which case such employee shall be liable for a civil penalty up to $1,000. The Committee expects that drunk and drugged driving would constitute such behavior. In assessing civil penalties, the Secretary is to take into account the nature, circumstances, extent, and gravity of the violation and the degree of culpability, history of prior offenses, ability to pay, and effect on ability to continue to do business of the violator. The assessment is to be calculated to induce further compliance.

The Committee believes that an employee who is operating a commercial motor vehicle in a grossly negligent manner or with reckless disregard for safety and in violation of this title should be subject to a civil penalty. At the same time, the Committee recognizes the fact that employees and employers enjoy a different financial status. The level of penalty necessary to provide a deterrent to an employer could have the effect of financially bankrupting an employee. The different levels of penalties for employers and employees are desgined, therefore, to create adequate incentives to assure compliance with the Act.

The Committee also emphasizes that, for the purposes of this title only, an owner-operator while in the course of personally operating a commercial motor vehicle for a commercial motor carrier is considered an employee for penalty purposes. When the owner-operator is not acting in such capacity, for purposes of this title he shall be treated as an employer. However, the Secretary, in assessing a civil penalty for an owner-operator or any other carrier, is directed to take into account, among other criteria, the ability to pay and effect on ability to do business.

This subsection authorizes the Secretary to require a violator to post a copy of a notice of violation or a statement thereof. The Secretary is also authorized to place a vehicle or an employee operating such vehicle out of service or to order an employer to cease all or part of his commercial motor vehicle operations if the Secretary determines that an imminent hazard to safety exists. "Imminent hazard" is defined as any condition of vehicle, employee, or commercial motor vehicle operations which is likely to result in serious injury or death if not discontinued immediately.

Subsection (b) provides for criminal penalties for employers and employees operting a commercial motor vehicle who knowingly or willfully violate the act. Penalties for an employer are a fine of up to $25,000 and/or imprisonment not to exceed 1 year. An employee is subject to a $2,500 fine, which the Committee believes is sufficient deterrent for an employee, who would also be subject to employer sanctions and State laws.

The Secretary is required to promulgate regulations establishing penalty schedules designed to induce fimely compliance for those failing to comply promptly with the requirements set forth in notices and orders. Subsection (b) also provides for review of orders issued under this subsection and provides that penalties and fines imposed shall be deposited into the Highway Trust Fund. The Committee encourages the DOT to allocate these funds for use in improving the National Driver Register.

In any action brought under this subsection, process may be served without regard to the territorial limits of the district or the State in which the action is brought. This subsection provides procedures for criminal contempt proceedings in accordance with the Federal Rules of Criminal Procedure.

Section 310—Litigation authority

This section amends Public Law 97-424 to require the Department of Justice to represent the DOT in litigation related to highway safety.

Section 311—State regulations

Section 311(a) parellels language in the Federal Railroad Safety Act of 1970 (45 U.S.C. 434). This section requires that State motor carrier safety laws, rules, regulations, orders, and standards be nationally uniform to the extent practicable. A State may adopt or continue in effect a law, rule, regulation, order, or standard until the Secretary has adopted a rule, regulation, order, or standard regarding the subject matter of such State requirement. In this regard, the Committee assumes that DOT regulations already in effect need not be adopted. A State may adopt more stringent commercial motor vehicle safety laws, rules, regulations, orders, or standards upon a finding by the Secretary that there is a compelling local need therefor, that the State requirement is not incompatible with Federal safety requirements, and that it will not unduly burden interstate commerce.

The Committee strongly believes that to promote the safety of interstate commerce, commercial motor vehicle safety requirements should be uniform throughout the United States to the extent practicable. However, States with innovative safety requirements that are not identical to the national norm should not be discouraged from seeking better ways to protect their citizens, so long as a strong safety need exists that outweighs this goal of uniformity. Section 311 emphasizes the need for uniformity but allows some flexibility for State requirements which strengthen safety.

Subsection (b) states that this act shall not affect existing State hour-of-service regulations applying to commercial motor vehicle operations occurring wholly within the State unless the Secretary of Transportation finds upon review of a State's hours-of-service regulations that such State regulations materially diminish commercial motor vehicle safety or health, are not required by compelling local conditions, or unduly burden interstate commerce. If such an affirmative determination is made by the Secretary, a State may be required to adopt Federal hours-of-service regulations.

Section 312—Inspection

Section 312(a) requires all commercial motor vehicles to pass an equipment inspection based on Federal standards, no less often than annually. Section 312(b) requires the Secretary to establish by rule Federal standards for these commercial motor vehicle inspections and for the retention by employers of records of such inspections.

The Committee does not intend this to be a burdensome requirement. Many motor carriers currently have excellent self-inspection programs. The Committee expects that the inspection requirement could be met by such programs.

In establishing this inspection requirement. The Committee seeks to ensure that inspection programs are uniform throughout the country and meet certain specified minimum safety requirements. This requirement is not intended, however, to preclude current roadside inspection procedures, if they meet the Federal standards to be established under this section.

Section 312(c) requires the Secretary to initiate a rulemaking within 60 days of the date of enactment to afford interested parties an opportunity to comment on part 393 of subchapter B of chapter 3 of title 49, Code of Federal Regulations and on the inspection and retention procedure required under subsection (b). The Committee expects the DOT to request specifically comment in this rulemaking as to whether the equipment requirements currently specified by the Commercial Vehicle Safety Alliance constitute an appropriate substitute for part 393 and an appropriate set of equipment inspection requirements.

Section 313—Certification of safety fitness

Section 313(a) requires the DOT, in cooperation with the ICC, to establish safety fitness standards applicable to commercial motor vehicles—both to carriers regulated by the ICC and those which are exempt and including persons seeking new or additional motor carrier operating authority. The safety fitness procedure shall include: specific initial and continuing requirements to prove safety fitness; a means of determining whether carriers meet these safety fitness requirements; and specific time deadlines for action by DOT and the ICC in making safety fitness determinations.

Subsection (b) requires the Secretary of Transportation to submit a copy of this safety fitness procedure to Congress within 1 year of the date of enactment.

Subsection (c) provides that this safety fitness procedure shall supersede all previous rules regarding DOT safety fitness assessments and ratings of motor carriers.

The Committee does not intend this strengthened safety fitness requirement to be burdensome or to act as a barrier to entry into the motor carrier industry. Rather, the Committee seeks to ensure that all motor carriers operating on the highways are truly safe. This is of particular concern with regard to first-time applicants for truck and bus operating authority. With the eased economic entry requirements pursuant to regulatory changes embodied in the Motor Carrier Act of 1980 and the Bus Regulatory Reform act of 1982, the safety fitness of applicants, as well as existing carriers, assumes increasing importance. This section does not, however, alter the statutory entry requirements specified in the truck and bus reform acts.

The Committee also expects that DOT and the ICC will develop and implement the new safety fitness procedure within current budgetary and personnel ceilings.

Section 314—Heavy Truck Research

Section 314(a) requires NHTSA to undertake research into the safety characteristics of heavy trucks, the unique problems associated with heavy trucks, and the manner in which such trucks are driven. The comprehensive study required under this section is to include an examination of the handling, braking, stability and crashworthiness of heavy trucks.

In 1982, Congress authorized uniform truck size dimensions to increase productivity and efficiency in the trucking industry, which is resulting in larger trucks being allowed throughout the United States. The Committee is continuing to monitor closely the safety of all trucks and is aware that large trucks (10,000 pounds and greater) have been found to be involved disproportionately in fatalities.

According to the Insurance Institute for Highway Safety, in 1978 (the most recent year for which a detailed analysis of truck crashes was made), large trucks were involved in 432,000 crashes, about 6 percent of the national crash total. However, they contributed to 12 percent of the national total of *fatal* crashes, largely due to the difference in weight between trucks and other involved vehicles. This problem is further compounded by the fact that there is no meaningful Federal regulation to prescribe maximum stopping distances for large trucks.

The Committee intends that NHTSA thoroughly examine all safety aspects of heavy trucks, including the need for amended Federal safety standards.

Section 314(b) authorizes funding of $1,200,000 for fiscal 1984 and $1,400,000 for fiscal 1985 to conduct this research.

SECTION 315—OVERSIGHT

This section requires annual Congressional oversight hearings for three years on the effects of this title and to ensure that it is being implemented according to Congressional intent and the purposes of this title.

CHANGES IN EXISTING LAW

In compliance with paragraph 12 of rule XXVI of the Standing Rules of the Senate, changes in existing law made by the bill, as reported, are shown as follows (existing law proposed to be omitted is enclosed in black brackets, new material is printed in italic, existing law in which no change is proposed is shown in roman):

THE NATIONAL TRAFFIC AND MOTOR VEHICLE SAFETY ACT OF 1966

Title I of that Act

SECTION 102 OF THAT TITLE

SEC. 102. As used in this title—

(1)-(13) * * *

(14) "schoolbus" means a passenger motor vehicle which is designed to carry more than 10 passengers in addition to the driver, and which the Secretary determines is likely to be significantly used for the purpose of transporting primary, preprimary, or secondary school students to or from such schools or events related to such schools[; and].

(15) * * *

(16)(A) "Passenger automobile" means a motor vehicle with motive power, except that the term does not include a multipurpose passenger vehicle, a motorcycle, a bus, a truck, or a trailer designed for carrying 10 persons or less.

(B) As used in subparagraph (A) of this paragraph, "multipurpose passenger vehicle" means a motor vehicle with motive power, other than a trailer, which is designed to carry 10 persons or less and which is constructed either on a truck chassis or with special features for occasional off-road operation.

SECTION 108 OF THAT TITLE

SEC. 108. (a) * * *

(b)(1)-(2) * * *

(3) A motor vehicle or item of motor vehicle equipment offered for importation in violation of paragraph (1)(A) of subsection (a) shall be refused admission into the United States under joint regulations issued by the Secretary of the Treasury and the Secretary; except that the Secretary of the Treasury and the Secretary may, by such regulations, provide for authorizing the importation of

such motor vehicle or item of motor vehicle equipment into the United States [upon such terms and conditions (including the furnishing of a bond) as may appear to them appropriate to insure that any such motor vehicle or item of motor vehicle equipment will be brought into conformity with any applicable Federal motor vehicle safety standard prescribed under this title, or will be exported or abandoned to the United States.] *in the following circumstances—*

(A) where an individual who has never before imported a nonconforming motor vehicle is importing, for only one-time, for personal use and not for resale a motor vehicle which is at least 5 years old at the time of importation; or

(B) in order to accommodate unforeseen cases of extreme hardship or extraordinary circumstances.

(4)-(5) * * *

(c) * * *

SECTION 125 OF THAT ACT

SEC. 125. * * *

SEC. 126. (a) Each manufacturer of passenger automobiles which annually manufactures a combined total of more than 1,200,000 passenger automobiles in the United States and in any foreign nation and which annually sells a total of more than 200,000 passenger automobiles in the United States shall, beginning with the model year which commences on September 1, 1985, offer for sale at a reasonable price and advertise the availabliltiy of automatic safety airbags on at least one automobile line produced by that manufacturer in any model year. Such airbags shall be installed at least in that automobile line which had the largest retail sales for the model year preceding the model year in which the airbags are installed.

SEC. 127. (a)(1) Not later than 60 days after the date of enactment of this section, the Secretary shall amend Federal Motor Vehicle Safety Standard 108 (49 CFR 571.108) to provide that each manufacturer of passenger automobiles equip each passenger automobile manufactured on or after September 1, 1984 with a high-mounted rear stoplamp. Each such stoplamp shall be activated upon application of the service brakes of the passenger automobile.

(2) Such amendment also shall include such requirements as the Secretary considers necessary or appropriate relating to the positioning of such high-mounted rear stoplamps, the effective projected luminous area of such stoplamps, and any other matters regarding the installation and operation of such stoplamps.

(b) Such amendment shall take effect not later than 120 days after the date of enactment of this section.

SEC. 128. (a) Not later than 60 days after the date of enactment of this section, the Secretary shall promulgate a Federal motor vehicle safety standard establishing passenger automobile crashworthiness rating and labeling requirements in accordance with this section. Such amendment shall take effect not later than 120 days after such date of enactment, and shall apply to passenger automobiles manufactured on or after September 1, 1984.

(b) The standard required in subsection (a) of this section shall provide a method for calculating a uniform numerical rating which will enable consumers to compare the crashworthiness of different passenger automobile models.

(c)(1) The standard required in subsection (a) of this section shall also require that—

(A) each passenger automobile manufacturer certify to the Secretary, not later than 90 days before any passenger automobile model produced by such manufacturer is offered for sale to consumers, the crashworthiness rating achieved by that model;

(B) each passenger automobile manufacturer affix a label to each passenger automobile indicating that model's crashworthiness rating; and

(C) the Secretary prepare a booklet for purposes of disseminating comparative information regarding the crashworthiness of passenger automobiles.

(2) The Secretary may include in the booklet to be prepared pursuant to paragraph (1)(C) of this subsection such other information relating to the purchase and ownership of passenger automobiles as the Secretary determines may be useful to consumers. Copies of such booklet shall be furnished by the Secretary to passenger automobile manufacturers for distribution to passenger automobile dealers.

(d) The labeling and certification required under this section shall be based upon performance criteria established by the Secretary relating to—

(1) crash protection for occupants with and without manual seatbelts;

(2) windshield mounting;

(3) windshield zone intrusion;

(4) fuel system integrity; and

(5) such other aspects affecting crashworthiness as the Secretary may consider appropriate.

THE MOTOR VEHICLE INFORMATION AND COST SAVINGS ACT

SECTION 3 OF THAT ACT

SEC. 2. For the purpose of this Act (except title V):

(1)–(18) * * * *

(19)(A) The term "passenger automobile" means a motor vehicle with motive power, except that the term does not include a multipupose passenger vehicle, a motorcycle, a bus, a truck, or a trailer designed for carrying 10 persons or less.

(B) As used in subparagraph (A) of this paragraph, the term "multipurpose passenger vehicle" means a motor vehicle with motive power, other than a trailer, which is designed to carry 10 persons or less and which is constructed either on a truck chassis or with special features for occasional off-road operation.

SECTION 201 OF THAT ACT

SEC. 201. (a)–(e) * * * *

(f) Not later than 1 year after the date of enactment of the Automotive Safety Improvement Act of 1983, the Secretary shall by rule establish procedures requiring passenger automoble dealers to make available to prospective passenger automobile purchasers information developed by the Secretary and provided to the dealer which contains data comparing the crashworthiness of passenger automobiles.

TITLE 23, UNITED STATES CODE

Chapter 4 of that title

CHAPTER 4. HIGHWAY SAFETY

Section
401. Authority of the Secretary.
402. Highway safety programs.
403. Highway safety research and development.
404. National Highway Safety Advisory Committee.
405. [Repealed]
406. School bus driver training.
407. Innovative project grants.
408. Alcohol traffic safety programs.
409. Drinking age, traffic records, and child safety seat programs.

SECTION 408 OF THAT TITLE

§ 408. Alcohol traffic safety programs

(a) Subject to the provisions of this section, the Secretary shall make basic and supplemental grants to those States which adopt and implement effective programs to reduce traffic safety problems resulting from persons driving while under the influence of alcohol[.] *or a controlled substance.* Such grants may only be used by recipient States to implement and enforce such programs.

(b) * * *

(c) No State may receive grants under this section in more than three fiscal years. The Federal share payable for any grant under this section shall not exceed—

(1) in the first fiscal year the State receives a grant under this section, 75 per centum of the cost of implementing and enforcing in such fiscal year the alcohol *and controlled substance* traffic safety program adopted by the State pursuant to subsection (a);

(2) in the second fiscal year the State receives a grant under this section, 50 per centum of the cost of implementing and enforcing in such fiscal year such program; and

(3) in the third fiscal year the State receives a grant under this section, 25 per centum of the cost of implementing and enforcing in such fiscal year such program.

(d)–(e) * * *

(f) The Secretary shall, by rule, establish criteria for effective programs to reduce traffic safety problems resulting from persons driving while under the influence of alcohol, which criteria shall be in addition to those required for a basic grant under subsection (e)(1). The Secretary shall establish such criteria in cooperation with the States and political subdivisions thereof, appropriate Federal departments and agencies, and such other public and nonprofit organizations as the Secretary may deem appropriate. Such criteria may include, but need not be limited to, requirements—

(1) for the establishment and maintenance of a statewide driver recordkeeping system from which repeat offenders may be identified and which is accessible in a prompt and timely manner to the courts and to the public;

(2) for the creation and operation of rehabilitation and treatment programs for those arrested and convicted of driving while intoxicated;

(3) for the impoundment of any vehicle operated on a State road by any individual whose driver's license is suspended or revoked for an alcohol-related driving offense;

(4) for the establishment in each major political subdivision of a State of locally coordinated alcohol traffic safety programs which are administered by local officials and are financially self-sufficient;

(5) for the grant of presentence screening authority to the courts;

(6) for the setting of the minimum drinking age in such State at twenty-one years of age;

(7) for the consideration of and, where consistent with other provisions of State law and constitution the adoption of, recommendations that the Presidential Commission on Drunk Driving may issue during the period in which rules are being made to carry out this section **[.]**; *and*

(8) for the creation and operation of rehabilitation and treatment programs for those arrested and convicted of driving while under the influence of a controlled substance or for the establishment of research programs to develop effective means of detecting use of controlled substances by drivers.

(g) * * *

§ 409. Drinking age, traffic records, and child safety seat programs

(a)(1) Subject to the provisions of this subsection, the Secretary shall make grants to those States which have in effect a law—

(A) which sets the minimum legal drinking age for persons consuming all alcoholic beverages in such State at 21 years of age;

(B) which provides that any person who is licensed by a State, or any employee of any such person, who sells, vends, gives away or otherwise supplies any alcoholic beverage in any quantity to any individual under 21 years of age shall be liable for an appropriate penalty; and

(C) which provides that any person who procures, sells, gives away, or otherwise supplies any alcoholic beverage in any quantity to any individual under 21 years of age shall be liable for an appropriate penalty, except that this subparagraph shall not apply to the parent or guardian of any such individual.

(2) Such a law shall be deemed to comply with paragraph (1)(B) and (C) of this subsection although it provides that the law does not apply to any person supplying alcoholic beverages for medical purposes or to any physician who administers alcoholic beverages to a patient for purposes of medical treatment.

(3) Such a grant may be used only by a recipient State to enforce alcohol traffic safety programs.

(4) No State may receive a grant under this subsection in more than 2 fiscal years.

(5) The amount of a grant made under this subsection for any fiscal year to any State which is eligible for such a grant under paragraph (6) of this subsection shall equal 10 percent of the amount apportioned to such State for each of the fiscal years 1984 and 1985 under section 402 of this title. Such a grant shall be in addition to any basic or supplemental grant received by such State under section 408 of this title.

(6) A State is eligible for a grant under this section if—

(A) on the date of enactment of this section, the State has adopted or has in effect a law or regulation which meets the requirements of this subsection; or

(B) after the date of enactment of this section, the State adopts or puts in effect a law or regulation which meets the requirements of this subsection.

(b)(1) Subject to the provisions of this subsection, the Secretary shall make grants to those States which implement accident-reduction projects through use of computerized safety recordkeeping systems designed to produce data regarding accident incidents or potential sites for accident incidents. Any such grant may only be used by a recipient State to establish and maintain computerized safety recordkeeping systems.

(2) No State may receive a grant under this subsection in more than 3 fiscal years.

(3) The amount of a grant made under this subsection for any fiscal year to any State which is eligible for such a grant under paragraph (4) of this subsection shall equal 20 percent of the amount apportioned to such State for each of the fiscal years 1984, 1985, and 1986 under section 402 of this title.

(4) A State is eligible for a grant under this subsection if—

(A) it certifies to the Secretary that it has in operation a computerized traffic safety recordkeeping system and identifies proposed means of upgrading the system; or

(B) it provides to the Secretary a plan for establishing and maintaining a traffic safety recordkeeping system.

(c)(1) Subject to the provisions of this subsection, the Secretary shall make grants to those States which have in effect a law requiring the proper use of child safety seats meeting the requirements of Federal Motor Vehicle Safety Standard 213 (49 CFR 571.212) by any child in a passenger automobile who—

(A) has not attained an age of 5 years or such lesser age as may be established by such State law; or

(B) has a weight of less than 40 pounds.

(2) No State may receive a grant under this subsection in more than 1 fiscal year.

(3) The amount of a grant made under this subsection for any fiscal year to any State which is eligible for such a grant under this subsection shall equal 10 percent of the amount apportioned to such State for each of the fiscal years 1984 and 1985 under section 402 of this title.

(4) A State is eligible for a grant under this subsection if—

(A) on the date of enactment of this section, the State has adopted or has in effect a law or regulation which complies with the requirements of this subsection; or

(B) after the date of enactment of this section, the State adopts or puts in effect a law or regulation which complies with the requirements of this subsection.

(d) There are authorized to be appropriated to carry out this section, out of the Highway Trust Fund, $44,500,000 for the fiscal year ending September 30, 1984; $48,500,000 for the fiscal year ending September 30, 1985; and $30,000,000 for the fiscal year ending September 30, 1986.

(e)(1) As used in this section, the term "passenger automobile" means a motor vehicle with motive power, except that the term does not include a multipurpose passenger vehicle, a motorcycle, a bus, a truck, or a trailer designed for carrying 10 persons or less.

(2) As used in paragraph (1) of this subsection, the term "multipurpose passenger vehicle" means a motor vehicle with motive power, other than a trailer, which is designed to carry 10 persons or less and which is constructed either on a truck chassis or with special features for occasional off-road operation.

TITLE 49, UNITED STATES CODE

SECTION 507 OF THAT TITLE

§507. Enforcement

(a)-(b) * * *

(c) The Attorney General, at the request of the Secretary, may bring an action in an appropriate district court of the United States for equitable relief to redress a violation by any person of a provision of section 3102 of this title or the Motor Carrier Safety Act of 1983, or an order or regulation issued under such section or Act. Such district court shall have jurisdiction to determine any such action and may grant such relief as is necessary or appropriate, including mandatory or prohibitive injunctive relief, interim equitable relief, and punitive damages.

[(c)**]** *(d)* A person injured because a rail carrier or freight forwarder does not obey an order of the Secretary under this chapter may bring a civil action to enforce that order under this subsection.

[(d)**]** *(e)* In a civil action brought under subsection (a)(2) of this section against a motor carrier, motor carrier of migrant workers, or motor private carrier—

(1) trial is in the judicial district in which the carrier operates;

(2) process may be served without regard to the territorial limits of the district or of the State in which the action is brought; and

(3) a person participating with the carrier in a violation may be joined in the civil action without regard to the residence of the person.

SECTION 521 OF THAT TITLE

§ 521. Civil penalties

(a) * * *

[(b)(1) A person required to make a report to the Secretary, answer a question, or make, prepare or preserve a record under this chapter about transportation by motor carrier, or an officer, agent, or employee of that person, that (A) does not make the report, (B) does not specifically, completely, and truthfully answer the question, or (C) does not make, prepare or preserve the record in the form and manner prescribed by the Secretary, is liable to the Government for a civil penalty of not more than $500 for each violation and for not more than $250 for each additional day the violation continues.

[(2) Trial in a civil action under this subsection is in the judicial district in which (A) the motor carrier has its principal office, (B) the motor carrier was authorized to provide transportation under subtitle IV of this title when the violation occurred, (C) the violation occurred, or (D) the offender is found. Process in the action may be served in the judicial district of which the offender is an inhabitant or in which the offender may be found.]

(b)(1) If the Secretary finds that a violation of section 3102 of this title or the Motor Carrier Safety Act of 1983, or a violation of a regulation issued under such section or such Act, has occurred, the Secretary shall issue a written notice to the violator. Such notice shall describe with reasonable particularity the nature of the violation found and the provision which has been violated. The notice shall fix a reasonable time for abatement of the violation, specify the proposed civil penalty, if any, and suggest actions which might be taken in order to abate the violation. The notice shall indicate that the violator may, within 15 days of service, notify the Secretary of the violator's intention to contest the matter. In the event of a contested notice, the Secretary shall afford such violator an opportunity for a hearing, pursuant to section 554 of title 5, following which the Secretary shall issue an order affirming, modifying, or vacating the notice of violation.

(2) Except as othewise provided in this subsection, any person who is determined by the Secretary, after notice and opportunity for a hearing, to have committed an act which is a violation of recordkeeping requirements issued by the Secretary pursuant to section 3102 of this title or the Motor Safety Carrier Safety Act of 1983 shall be liable to the United States for a civil penalty not to exceed $500 for each offense. Each day of a violation shall constitute a separate offense, except that the total of all civil penalties assessed against any violator for all offenses relating to any single recordkeeping violation shall not exceed $2,500. If the Secretary determines that a substantial health or safety violation exists or has occurred which could reasonably lead to, or has resulted in, serious personal injury or death, the Secretary may assess a civil penalty not to exceed $10,000 for each offense: Provided, however, That, except for recordkeeping violations, no civil penalty provided under this section shall be assessed against an employee for a violation of this section unless the Secretary determines that such employee's actions constituted gross negligence or reckless disregard for safety, in

which case such employee shall be liable for a civil penalty not to exceed $1,000. The amount of any civil penalty, and a reasonable time for abatement of the violation, shall by written order be determined by the Secretary, taking into account the nature, circumstances, extent, and gravity of the violation committed and, with respect to the violation, the degree of culpability, history of prior offenses, ability to pay, effect on ability to continue to do business, and such other matters as justice and public safety may require. In each case, the assessment shall be calculated to induce further compliance.

(3) The Secretary may require any violator served with a notice of violation to post a copy of such notice or statement of such notice in such place or places and for such duration as the Secretary may determine appropriate to aid in the enforcement of section 3102 of this title or the Motor Carrier Safety Act of 1983.

(4) Such civil penalty may be recovered in an action brought by the Attorney General on behalf of the United States in the appropriate district court of the United States or, before referral to the Attorney General, such civil penalty may be compromised by the Secretary.

(5)(A) If, upon inspection or investigation, the Secretary determines that a violation, or combination of violations, poses an imminent hazard to safety, the Secretary shall order a vehicle or employee operating such vehicle out of service, or order an employer to cease all or part of the employer's commercial motor vehicle operations. In making any such order, the Secretary shall impose no restriction on any employee or employer beyond that required to abate the hazard. Subsequent to the issuance of the order, opportunity for review shall be provided in accordance with section 554 of title 5, except that such review shall occur not later than 10 days after issuance of such order.

(B) In this paragraph, "imminent hazard" means any condition of vehicle, employee, or commercial motor vehicle operations which is likely to result in serious injury or death if not discontinued immediately.

(6) Any person who knowingly and willfully violates any provision of section 3102 of this title or the Motor Carrier Safety Act of 1983, or a regulation issued under this title or such Act, shall, upon conviction, be subject for each offense for a fine not to exceed $25,000 or imprisonment for a term not to exceed 1 year, or both, except that, if such violator is an employee, the violator shall only be subject to penalty if, while operating a commercial motor vehicle, the violator's activities have led or could have led to death or serious injury, in which case the violator shall be liable, upon conviction, for a fine not to exceed $2,500.

(7) The Secretary shall promulgate regulations establishing penalty schedules designed to induce timely compliance for persons failing to comply promptly with the requirements set forth in any notices and orders under this subsection.

(8) Any aggrieved person who, after a hearing, is adversely affected by a final order issued under this section may, within 30 days, petition for review of the order in the United States court of appeals in the circuit wherein the violation is alleged to have occurred or where the violator has his principal place of business or residence,

or in the United States Court of Appeals for the District of Columbia Circuit. Review of the order shall be based on a determination of whether the Secretary's findings and conclusions were supported by substantial evidence, or were otherwise not in accordance with law. No objection that has not been urged before the Secretary shall be considered by the court, unless reasonable grounds existed for failure or neglect to do so. The commencement of proceedings under this subsection shall not, unless ordered by the court, operate as a stay of the order of the Secretary.

(9) All penalties and fines collected under this section shall be deposited into the Highway Trust Fund.

(10) In any action brought under this section, process may be served without regard to the territorial limits of the district of the State in which the action is brought.

(11) In any proceeding for criminal contempt for violation of an injunction or restraining order issued under this section, trial shall be by the court, or, upon demand of the accused, by a jury, conducted in accordance with the provisions of rule 42(b) of the Federal Rules of Criminal Procedure.

(12) As used in this subsection, the term—

(A) "commerce" means trade, traffic, or transportation within the jurisdiction of the United States between a place in a State and a place outside of such State, or which affects trade, traffic, or transportation between a place in a State and a place outside of such State;

(B) "commercial motor vehicle" means any self-propelled or towed vehicle used on the highways in commerce principally to transport passengers or cargo—

(i) if such vehicle has a gross vehicle weight rating of 10,000 or more pounds;

(ii) if such vehicle is designed to transport more than 15 passengers, including the driver, except for a schoolbus, as defined in section 102(14) of the National Traffic and Motor Vehicle Safety Act of 1966 (15 U.S.C. 1391(14)), when used in transporting primary, pre-primary, or secondary school students to or from such schools or events related to such schools; or

(iii) if such vehicle is used in the transportation of materials found by the Secretary of Transportation to be hazardous for the purposes of the Hazardous Materials Transportation Act (49 U.S.C. 1801 et seq.);

(B) "employee" means—

(i) a driver of a commercial motor vehicle (including, for purposes of this subsection only, an independent contractor while in the course of personally operating a commercial motor vehicle);

(ii) a mechanic;

(iii) a freight handler; or

(iv) any individual other than an employer;

who is employed by a commercial motor carrier and who in the course of this employment directly affects commercial motor vehicle safety, but such term does not include an employee of the United States or any State who is acting within the course of such employment;

(C) "employer" means any person engaged in a business affecting commerce who owns or leases a commercial motor vehicle in connection with that business, or assigns employees to operate it in commerce, but such term does not include the United States or any State;

(D) "person" means one or more individuals, partnerships, associations, corporations, business trusts, or any other organized group of individuals; and

(E) "State" means a State of the United States, the District of Columbia, the Commonwealth of Puerto Rico, the Virgin Islands, American Samoa, Guam, or the Commonwealth of the Northern Marianas, or a political subdivision thereof.

SECTION 2313 OF THAT TITLE

§ 2313. Enforcement

[The Secretary or, on] *On* the request of the Secretary, the Attorney General of the United States, is authorized and directed to institute any civil action for injunctive relief as may be appropriate to assure compliance with the provisions of this title. Such action may be instituted in any district court of the United States in any State where such relief is required to assure compliance with the terms of this title. In any action under this section, the court shall, upon a proper showing, issue a temporary restraining order or preliminary or permanent injunction. In any such action, the court may also issue a mandatory injunction commanding any State or person to comply with any applicable provision of this title, or any rule issued under authority of this title.

SECTION 3102 OF THAT TITLE

§ 3102. Requirements for qualifications, hours of service, safety, and equipment standards

(a)-(c) * * *

(d) The Secretary shall, before prescribing or revising any requirement under this section, consider the costs and benefits of such requirement.

ADDITIONAL VIEWS OF MR. DANFORTH

The Highway Safety Act of 1983 (S. 1108) addresses a wide variety of highway safety issues, providing a comprehensive approach to the highway safety problem. This legislation addresses the serious concerns expressed in extensive Committee hearings on highway safety.

S. 1108 takes steps to incorporate the most up-to-date technological advances into automobiles and trucks to save lives and reduce injuries and property damage. This legislation also seeks to encourage States to take action to combat drunk and drugged driving and to require use of child passenger safety seats. Lastly, S. 1108 strengthens motor carrier safety regulations, by giving the Department of Transportation broad safety enforcement authority and improving the current penalty system applicable to violators of commercial motor vehicle safety regulations.

The Surface Transportation Subcommittee conducted seven hearings this year on various aspects of highway safety. Clearly, the number one controversy with respect to highway safety and S. 1108 was the issue of airbags. The National Highway Traffic Safety Administration has conceded that the installation of airbags, if they were universally available in automobiles, would save in the neighborhood of 8,500 lives a year. Airbags would also prevent more than 130,000 injuries each year.

Testimony presented to the Surface Transportation Subcommittee showed that the cost per airbag, assuming that they are mass-produced in numbers of 2 million or more per year, is estimated at $208. Comparing the cost of an airbag with the costs of other items that are included in automobiles puts this $208 figure into perspective. On a 1983 Mustang, power steering costs $202, air conditioning costs $724, power-side windows cost $180, and power locks cost $160. Unlike these other features, however, an airbag is a cost which will be recouped by the owner of a car. The subcommittee received testimony from the insurance industry and from the Insurance Commissioner of New York to the effect that for cars where an airbag is installed, the cost of insurance is reduced by 30 percent. Over a 10-years period of time, the reduction in insurance premiums would be an estimated $660 in New York, and somewhat less in other States. Thus, over a 3-to-5-year period, the consumer recoups what was spent on the airbag.

In addition to a total saving in dollars for the consumer, there is also a saving to the Government. In Medicare, Medicaid and disability insurance, and the lost taxes and a variety of costs to the Government, roughly $1 billion would be saved each year by the installation of airbags.

Airbag technology is not new. Airbags have already been installed in more than 12,000 automobiles. In the early 1970's, General Motors put airbags in 10,000 automibiles. Some of these cars have been involved in accidents; to date, more than 300 lives have already been saved by the airbags in these cars. Mercedes-Benz is now offering driver-side airbags as an option to American car-buyers.

During the Committee's consideration of section 106, a concern was raised as to the state of airbag technolgy on the passenger side. This technology, is well-refined; driver and passenger-side airbag systems have undergone extensive testing. GM's 1974–76 test fleet was also equipped with full front seat airbags; these cars have had an outstanding performance record. Further, former GM president Ed Cole, in a 1977 letter to the Insurance Institute for Highway Safety, made the following statement. "I firmly believe the air cushion system can be made to work successfully at a reasonable cost. . . . The technology is available and the need is there. I think the only way passive restraints are going to get to first base is to make them mandatory. Another test will prove nothing. Let the passive air cushion evolve like all other systems."

Concern was also expressed as to potential danger from airbags to out-of-position front-seat occupants. There are, however, no out-of-position problems that have not been addressed and resolved. In 1979, GM announced that it had solved its supposed problems involving airbags and possible hazards to out-of-position children and promised to offer an inflatable restraint system as an option at the start of the 1982 model year. NHTSA also thoroughly researched the issue and concluded there was no problem with the out-of-position front seat occupant as long as the airbag is properly designed. Further, the Southern California chapter of the American Academy of Pediatrics, which reviewed airbag advantages and disadvantages in 1981, including the issue of children in the front seat, concluded the problem was insignificant compared to the advantages of airbags.

The issue therefore is whether we have a restraint system that works or a restraint system that does not work very well. NHTSA believes that if people could be exhorted to wear their seatbelts, we would all be better off. The fact of the matter, however, is that with many ads exhorting people to use seatbelts, they have proved a failure; only about 13 percent of the population wears seatbelts. Airbags, however, are effective with or without seatbelts.

Congress must move forward with this proven technology so that lives can be saved. I believe that airbags should be mandatory equipment in all new cars; S. 1108 was drafted to accomplish this goal. The amendment to section 106 which was adopted by the Committee, however, does not go as far as S. 1108's original provision; rather, the amendment requires manufacturers to offer airbags in their most popular car line, starting in model year 1986.

Nevertheless, I see this amendment as a positive step forward. I firmly believe that airbag technology must be made available to the American consumer as quickly as possible; this provision will help achieve this goal. I view this provision, however, as a *supplement* to the rulemaking proceedings now taking place at the DOT. If the Department fulfills its responsibilities, it will shortly issue a passive restraint standard which will require airbags or automatic seatbelts in all cars. As I believe that airbags are the superior technology, I support this provision because it will require the auto manufacturers to make at least some airbags available in the near future. I want to emphasize, however, that this provision is not intended to give NHTSA or the DOT any further excuse for delaying implementation of a passive restraint standard that would apply to *all* cars.

S. 1108 mandates a variety of safety features in automobiles. The Federal Government already mandates certain safety features, such as types of steering columns, padded dashboards, high-penetration resistant windshields, and seatbelts. Thus, the philosophical question of whether or not the Government should get in the business of mandating safety is one that has already been answered and decided.

Motor vehicle safety is of profound national importance. Last year, over 45,000 Americans were killed in traffic accidents and hundreds of thousands more were injured. Congress has charged NHTSA with one job and one job only—to stop the slaughter on our highways. I am deeply concerned that the present Administration has lost sight of this singular objective. This legislation is crucial to getting NHTSA back on the right track. NHTSA must do everything it can to improve highway safety.

JOHN C. DANFORTH.

ADDITIONAL VIEWS OF MR. FORD

During consideration of S. 1108 by the Commerce Committee, I offered an amendment as a substitute for section 106 of the bill which was adopted. The amendment requires certain car manufacturers to offer airbags as an option in their largest selling car line. Further, the amendment required that manufacturers advertise the availability of airbags and offer them for sale at a "reasonable price."

I disagree with the interpretation given my amendment in the report accompanying S. 1108. I have three specific objections. First, I disagree with the statement in the report that "[t]he Committee intends that automakers *Ensure* that airbag-equipped cars are available at dealer showrooms." (italics added). The Committee did not require that cars with airbags appear in every showroom at all times. The Committee did not even address that issue. Requiring airbag-equipped cars in all showrooms is an impractical, if not impossible, requirement. to require that cars with airbags always be available for purchase at every dealer showroom places an unwarranted financial burden on local dealers who must finance those cars to have them available in the showroom. Normally, if a consumer desires a certain set of options on a car the consumer must order the car with those options or the dealer may have to shop around for such a car in the local area.

Further, I have seen no current statistical projections on actual consumer preferences for airbags as an option and there is no accurate way to initially predict the demand for airbags. Surely, local dealers, who order the cars they wish to display in their showrooms, are more knowledgeable concerning their customers' preference than this Committee and are in a better position to judge how many airbags-equipped cars should be made available for their customers.

Secondly, I object to the statement in the report requiring that advertising of airbags be "at a level *comparable* to that used by manufacturers when publicizing other features of their cars." (italics added) I find this attempt to dictate the content of advertising in print and on television highly objectionable and unworkable. Who will judge what is the "appropriate" level of advertising? This goes well beyond the language of my amendment which merely states that manufacturers "advertise the availability of automatic safety airbags." Television and print ads rarely advertise options, rather they concentrate on fuel efficiency, "performance," "quality," and price. Would this language require every advertisement which mentions any car feature to also mention the availability of airbags?

I must also object to the gloss put on the terms "reasonable price" in the Committee report. The estimates quoted in the report for the price of an airbag may be applicable when producing airbags in volumes of 1 million or 2 million units. However, under this bill, it is highly unlikely that production will reach those volumes. Figures for 1982 for manufacturers in their largest selling car lines are:

Company and largest selling car line:	*1982 Sales*
Ford—Escort	338,000
General Motors—Olds Cutlass Supreme	281,000
Toyota—Corolla	175,000
Nissan—Sentra	191,000
Volkswagen—Rabbit	91,000
Chrysler [1]—Reliant	147,000
Honda [1]—Accord	195,000

[1] Currently, do not meet the sales criteria of section 106.

1983 Sales are running about 15 percent higher than 1982.

1982 sales of listed cars above	$1,418,000
1983 projected	1,630,700
Total cars eligible for airbag option based on projected 1983 sales	1,630,700

Assuming 10 percent of consumers of these cars purchase airbags as an option the total number of airbags required would only run around 163,000, which must be divided among several manufacturers all producing airbags at volumes of far less than 163,000. This small volume will result in costs significantly higher than those quoted in the Committee report. To expect that the price of an airbag will be $200–$355 or less is unrealistic. Estimates for airbags in small volumes run as high as $1,500. This year, Mercedes-Benz is offering a driver-side only airbag system in its 220 series and the cost will be $800–$900 for the option. Mercedes estimates 10 percent of its customers will buy the airbag option. Indeed, in 1974, 1975, and 1976 GM offered airbags as an option on 100,000 cars (each year) and a total of 10,281 cars with airbags were sold, 5,630 were sold in 1975, 4,006 were sold in 1975 and 645 were sold in 1976.

To state, on the one hand, that the Committee "intends that the airbag be priced in a manner identical to that used for other components . . . includ[ing] a reasonable manufacturer and dealer profit and amortization of airbag system over a 3 to 5 year period"; and, to say on the other, that the Committee expects the price to be $200–$355 or less is inconsistent and may well be contradictory. I question how manufacturers and local dealers will be able to comply with both directives.

I strongly believe it is important for consumers to have freedom of choice. Under my amendment, for those consumers who wish to retain the present belt system they will have the freedom to choose traditional seat belts and for those consumers who wish to have the benefits of airbags those consumers will have that option on a wide range of vehicles. The Committee's "intent" was to give consumers an option—the freedom to buy an airbag at a reasonable price. The Committee did not intend to impose unrealistic, unworkable, and contradictory requirements on automakers and local automobile dealers. Therefore, I cannot agree with these requirements added on to my amendment after Committee consideration and adoption of it.

WENDELL H. FORD.

○